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Worlds apart: Rojava enterprise and the Islamic State in their own words

A systematic analysis of the ideologies behind the two non-state political entities in Syria and Iraq

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**Abstract:**

This thesis explores the political philosophies of two non-state societies that have been established in the midst of the armed conflict in Syria. The two systems are called the Democratic Federation of Northern Syria, or 'Rojava' in Kurdish, and the Islamic State. The former model enforces democratic autonomy, decentralized grass-roots democracy and women's rights. The latter is an expansionist theocracy that defines itself a global caliphate in which Islamic law is regarded as the sole legitimate legal regime. At the time of writing this thesis, the Rojava project is being implemented while the Islamic State as a sovereign political system will meet its definite demise in the immediate future.

The leadership of both movements have published several documents outlining the ideological tenets of their respective systems. Documents elucidating the ideological bedrock behind the Rojava endeavor include the provisional constitution of Rojava called the *Charter of the Social Contract*, or the *Rojava Charter* (2017) and a compendium of writings by Abdullah Öcalan (2017), the leader of the PKK network that has constructed the system in Rojava, titled *The Political Thought of Abdullah Öcalan: Kurdistan, Woman's Revolution and Democratic Confederalism*. Primary sources that shed light on the founding principles of the Islamic State include a lengthy speech by nom de guerre Abu Bakr al-Baghdadi (2014), the head of the Islamic State, titled *A Message to the Mujahidin and the Muslim Ummah from Amirul- Mu'minin Abu Bakr al-Husayni al-Qurashi al-Baghdadi*, a policy document drafted by the top echelon of the Islamic State (2014) titled *Principles in the administration of the Islamic State*, and an administrative document written by the Islamic State (2016) titled *Document of the City*, published digitally and addressed to all people residing within the Islamic State territories. The thesis also relies on primary source material gathered in Iraq by this writer and investigative journalist Ms. Airin Bahmani (Bahmani & Jäntti 2016) on the enslavement of, and genocide targeting, the Yazidi minority by the Islamic State.

The thesis employs three theoretical tools that together have enough depth to produce meaningful insight into two drastically different ideological milieus. The three theories are democracy, human rights and social contract. The thesis will conduct a systematic analysis juxtaposing detailed expositions on democracy by scholars Dahl (1998) and Diamond (2004), on the one hand, with the primary source material published by the two movements, on the other. The thesis also determines the degree of compatibility between the Islamic State model and the political preferences of the Iraqi people by comparing the tenets of the Islamic State system with Iraqi public opinion.

The thesis establishes that the model instituted by the Islamic State is one of institutionalized Sunni supremacy and that the societal system enforced by the Islamic State is fundamentally at odds with the political preferences of Iraqis, including Iraqi Sunnis. The thesis establishes that the foundational document of Rojava is compatible with a strict set of conditions for democracy proposed by Dahl, incorporates all international human rights treaties, promotes the freedom of women to participate in political life and presents an inclusive, ultramodern social contract that is open to communities and individuals regardless of their ethnicity, religion, gender or any other trait or status.

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## **1. Introduction**

In the midst of the armed conflict in Syria, two non-state political systems have been erected in the country: The Democratic Federation of Northern Syria (Rojava) and the Islamic State (IS)<sup>1</sup>. The former is a democratic and de facto autonomous region in northern Syria (Grote & Röder 2016, 492) and the latter is a self-declared worldwide Caliphate whose sphere of influence in 2015 encompassed an area stretching from the north of Aleppo in Syria to the southeast of Baghdad in Iraq (Fairfield et al 2015). Chapter 1.1 first presents the subject matter and structure of the thesis, then elucidates its theoretical framework and primary source material. The introductory chapter also gives an overview of the political and historical context of the Rojava project and the IS and clarifies key concepts and issues pertinent to the focal-points of the thesis. Besides the introductory chapter, the chapters of the thesis include the theoretical framework, empirical analysis and conclusions, respectively.

### **1.1 Subject of the thesis**

This thesis investigates a distinct phenomenon of the war in Syria: the emergence of two separate, vast and meticulously planned non-state political regimes in parts of Syria and Iraq. One is a decentralized system of participatory democracy, a social contract which in its provisional constitution asserts that it is committed to an inclusive political system based on “freedom, justice, dignity and democracy and led by principles of equality and environmental sustainability”. (Rojava Charter 2014, preamble) The other is a theocratic system of institutionalized Sunni supremacy which, in the words of a policy document published by the organization in 2015, will “protect the power of the Sunnis” and take decisive action "against every heretic community". (Islamic State 2015)

This thesis analyzes the philosophical bedrock of both societal systems. What are the fundamental principles that each system is formally grounded on? On what basis is political power allocated? The thesis scrutinizes the central legal and political doctrines of both non-state systems as these doctrines are expressed in documents, writings or declarations by the leaders of both movements. The primary source material on Rojava includes writings by the long-standing figurehead of the Kurdistan Workers' Party (PKK), Abdullah Öcalan, and the Rojava Charter, the provisional constitution of Rojava which calls itself ‘a social contract’. The material on the IS includes statements by Abu Musab

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<sup>1</sup> In this thesis, the Islamic State is both the name of the organization that occupies parts of Syria and Iraq and the name of the political entity that exists within those areas. The two meanings are used interchangeably.

al-Zarqawi, the head of Al-Qaeda in Mesopotamia (which gradually transformed into the IS), Abu Bakr al-Baghdadi, the leader of the IS and several documents published by the organization's upper echelon.

The provisional constitution of Rojava maintains that it is democratic in character. To determine whether this is indeed an apt description, the thesis will assess the depth of democracy of the Rojava Charter. The Rojava Charter will be evaluated against six criteria for a democratic society as set out by democratic theorist Robert Dahl in his seminal monograph 'On Democracy' (See Dahl 1998, 85-6).

The research setting for assessing the IS model follows a different line of reasoning. Whether the ideology of the IS is democratic appears somewhat uninteresting – to anyone familiar with the organization the answer is most obviously no. Indeed, the IS has no intentions towards democracy, quite the opposite. Researching the compatibility of democracy and human rights with the IS agenda is motivated by practical concerns rather than theoretical ones. how does public opinion among Iraqis in general, and among Iraqi Sunnis in particular, relate to a theocratic Islamist political model? Is there widespread support for, or perhaps strong opposition to, the tenets of the political program of the IS? Answering these questions helps to map out the post-IS reality in Iraq and its political tendencies.

The IS as an organization has been largely eliminated in late 2017. (Reuters 2017) However, what are the prospects for some other theocratic Islamist movement seeking to derail Iraqi democracy after the IS has been rooted out? If erosion of democracy and a theocratic form of government enjoyed substantial backing among Iraqi citizens, then the current organizational dissolution of the IS would not necessarily mean that some new ultraconservative Islamist movement would not be able to set up a religious regime such as the one instituted by the IS. Quite the contrary, public support for theocratic rule and opposition to human rights standards and democracy would leave the door open for other organizations with similar agendas as that of the IS to seek to consolidate their rule in Iraq. Conversely, if there exists strong opposition to theocratic rule and substantial endorsement of democratic and human rights norms among Iraqi citizens, one might conclude that prospects for another theocratic organization rising to prominence in Iraq are indeed grim. At the bare minimum, if Iraqi public opinion were to reject the tenets of the IS system, then one could conclusively deduce that even if another group with a similar agenda as that of the IS would manage to gain momentum

somewhere in Iraq, it would not be due to public support and thus, given the lack of support, the chances for a successful theocratic takeover anywhere in Iraq would be less likely.

At the center of analyzing the IS system in this thesis, then, are the political preferences of the general public of Iraq. Do Iraqis support a democratic form of government that safeguards modern human rights norms? What is the degree of support among Iraqis for freedom of speech? The thesis will establish Iraqi public opinion trends on several political questions using survey data compiled by Pew Research Center, International Republican Institute, Gallup Poll, Associated Press and Japan's national public broadcasting organization NHK. The exact source will be identified whenever specific data is cited. Chapter 3.3 will establish the political preferences of citizens of Iraq on the following issues: selecting or changing government through peaceful and fair elections; religious freedom; human rights; freedom of speech; arbitrary arrest and detention; torture and degrading punishment; fair and public trials; freedom of assembly and the stance of Iraqis towards discrimination based on religion, race, sex and ethnicity. The above focal-points have been selected to determine to what an extent, if any, the ideology of the IS is consistent with the political positions of Iraqis in general and Iraqi Sunnis in particular.

Besides opinion polls compiled by surveying organizations, this thesis will also refer to the Iraqi constitution. Roughly four out of five Iraqis voted in favor of the constitution in a constitutional referendum in 2005. (BBC 2005) Considering that Iraqis endorsed the constitution in a landslide, the content of the constitution will be viewed in the thesis as an indication of Iraqi public opinion. Whereas survey data will be treated as conclusive evidence of Iraqi public opinion, the articles of the constitution will be viewed as suggestive evidence of the political preferences of Iraqis.

The thesis will inspect the IS model and Iraqi public opinion through the lens of four conditions for a democratic society as set forth by American scholar Larry Diamond in 2004. (See Diamond 2004) Diamond's conditions for a democracy are broader than the more detailed six conditions as defined by Dahl. Thus, the IS model and Iraqi public opinion will both be juxtaposed with Diamond's four criteria. To what an extent are the political preferences by the Iraqi citizenry consistent with a set of conditions for democracy as presented by an American political scientist in the 21<sup>st</sup> century? How do the ideological tenets of the IS model relate to Diamond's conditions?



## 1.2 Overview of theoretical framework

Given the stark differences between the political ethos of the IS and that of the Rojava enterprise, the theoretical tools employed in the thesis to analyze the two systems must be adaptable, thorough and capable of providing insight into a broad spectrum of ideologies. A set of theoretical instruments that meets these criteria are democracy, human rights and social contract theory. The three theoretical tools will be applied to both systems, for reasons discussed below, with the exception of social contract theory which will be applied solely to the Rojava model. Democracy, human rights and social contract theory will be considered in turn in Chapter 2.

As will become clear in Chapter 3.4, the Iraqi general public, including Iraqi Sunni minority, overwhelmingly favors a democratic process and safeguarding human rights norms over religious form of government. Hence, albeit the Rojava and IS systems are sharply different from one another, given that Iraqis prefer democracy and human rights over theocracy and religious rule, and given that the Rojava Charter calls itself democratic, the theoretical framework of the thesis –democracy and human rights – enables a thorough analysis of *both* political models. To further assess the Rojava Charter, the thesis will also employ social contract theory which will be discussed in Chapter 2.3. In scrutinizing the Rojava charter and Öcalan's theorizing, the thesis will assess whether or to what an extent the charter *is* democratic and consistent with human rights norms. In the case of the ideology of the IS, the thesis seeks to determine precisely why and how the political philosophy of the IS is *not* democratic nor consistent with human rights norms.

The two elements comprising democracy – ‘demos’ and ‘kratos’ – have undergone a profound transformation since the formal inception of democracy in Ancient Athens. The chapter on democracy discusses the evolution of the narrow and exclusive ‘demos’ of Ancient Athens to the inclusive and broad ‘demos’ of present-day democracies. The chapter will then consider changes in mainstream political science in the past century on what renowned theorists have regarded as the ideal extent of ‘kratos’ that citizens should yield. The chapter will demonstrate that expositions presented by Schumpeter and Weber in the first half of the 20th century differ significantly from the more recent models put forth by Dahl and Diamond on the role of the general public in a democratic society. The thesis will argue that, only in the past hundred years, the scope of ‘kratos’ has come to denote not only limited spectator democracy in which citizens have a say on who leads but a more robust mandate for citizens to engage proactively in political life.

Similarly, the evolution of human rights norms is the result of thousands of years of political, cultural and legal developments. The emergence of human rights legislation after the Second World War (WWII) continues to have a profound impact on international and domestic legal instruments. Chapter 2.2 chronicles the classes of rights that comprise modern human rights theory and accounts for the historical origins of the philosophy of human rights. That human rights norms have come to command global prestige has been enabled in part by the triumph of moral universalism over moral relativism in the stage of world politics. To highlight how modern human rights have come into being through vigorous debates and criticism, the chapter on human rights will discuss the history and formation of human rights by assessing a famous relativist critique of human rights issued by the American Anthropological Association in 1947. The critique claims that the Universal Declaration of Human Rights (UDHR) is a Western concoction and insensitive to the diverse cultures of the world (Executive board of the American Anthropological Association 1947, 539-543). Chapter 2.2.6 will demonstrate, however, that the cited criticism is based on an inaccurate depiction of the historical record both in terms of the philosophical roots of moral universalism and the drafting process of the milestone UDHR. The chapter on the history of human rights will demonstrate that a plethora of influences from numerous religious and secular persuasions contributed to what ultimately materialized as the modern human rights doctrine. The immense popularity of human rights in the post-WWII era attests to their triumph.

The third theoretical instrument, the social contract, was developed in its modern form during the Enlightenment. I will take a closer look at social contract theorizing by Immanuel Kant, Jean-Jacques Rousseau, John Locke and Thomas Hobbes in Chapter 2.3. The core idea of the social contract is the notion of free individuals forming a pact which would bring them security from outside threats as well as threats each member of the pact might pose to one another. Perhaps most importantly, social contract theorizing revolves around the idea of emancipation from the state of nature, an abstraction referring to an underdeveloped and primitive human condition. Analyzing the IS model through the lens of social contract would be rather futile for the IS system is based on the ostensible superiority of religious Islamic law – the IS regime does not therefore require consent any more than it requires consultation by its subjects. However, the social contract serves as an absorbing theoretical tool for analyzing the Rojava Charter which, by its official name, is ‘Charter of the Social Contract’. Chapter 4.3 detects several thought-provoking similarities between the Enlightenment-era social contract theorizing and the Rojava Charter.

I will focus on social contract theorizing specifically by Kant, Rousseau, Locke and Hobbes for the following reasons: Kant speculated on the possibility that lawmakers would regard each law as if it could have been created by the united will of the entire nation, an idea that resonates strongly with the social contract of the Rojava Charter; Rousseau argued that the general will is based on the notion that each man shows the same consideration for others as he shows for himself and that the general will has to come from everyone and apply to everyone, a proposition whose premises are consistent with the ethos of the Rojava Charter; Hobbes, in his contemplation on the state of nature, proposed that the state of nature was a dark human condition, a consideration that resembles Syria's reality of war and dictatorship which the Rojava Charter seeks to emancipate from through its social contract.

None of the three theoretical tools – democracy, human rights or the abstraction of social contract – would alone suffice for analyzing the philosophical ethos of the two non-state systems investigated in the thesis. As a theoretical notion, democracy enables the examination of some aspects of the subject matter, mainly the question of a society's political order. The same holds true for human rights which can be used to break down other aspects of society, especially its legal norms. However, a society is not an exclusively political entity, nor a mere legal one at that, but a more intricate whole. When combined, the perspectives of democracy and human rights, together with the concept of social contract and its theorizing on free individuals forming an organized society, the three institutions form a comprehensive and insightful theoretical background against which the thesis' primary source material can be critically examined.

### **1.3. Empirical material and empirical analysis**

The thesis explores a wide variety of primary sources. The empirical material on IS consists of a long and detailed speech given by the IS chief Abu Bakr al-Baghdadi in 2014 and several documents written by the leadership of the IS. Most of the primary sources on IS researched in this thesis have been made public by the group, however, one document scrutinized in the thesis was initially leaked and subsequently published by The Guardian (2014). The empirical material on the ideology behind the Rojava enterprise consists on the provisional constitution of Rojava and a recently translated collection of writings by Öcalan (2017). Besides the above primary source documents, the thesis refers to a plethora of authoritative secondary sources, such as reports by think-tanks and news items by media outlets such as the New York Times, Washington Post, BBC and the CNN.

Empirical analysis in the thesis has two parts. The first part presents the primary sources examined in the thesis. The presentation of the primary sources is accompanied by contextualizing commentary that makes the chapter more reader-friendly and comprehensible. The second part of the empirical analysis consists of a systematic dissecting of the ideologies of Rojava and the IS, as well as the key public opinion trends of the Iraqi citizenry, against the backdrop of the theoretical framework of the thesis.

#### **1.4 A complex of armed conflicts in Syria**

To illuminate the background, evolution and nature of Rojava and the IS, I next turn to the war in Syria with its various factions as well as their religious and political underpinnings. Syria is a Middle Eastern state bordered by Turkey to the north, Iraq to the east, Jordan to the south, Israel to the southwest and Lebanon and the Mediterranean Sea to the west. Since March of 2011, Syria has been embroiled in a multi-party armed conflict. In early 2011, a wave of protests denouncing the legitimacy of the Syrian President Bashar al-Assad and his regime swept through all major Syrian cities. Syrian authorities responded with overwhelming force, killing a number of protesters. In a matter of weeks, a broad, national and spontaneous uprising was underway and was soon accompanied by an anti-government military insurgency. The conflict began as a confrontation between the Syrian government which was eager to put an end to all subversive activity, on the one hand, and rebel formations whose aim was to topple the Syrian government, on the other. Gradually, the opposition came to be dominated by a spectrum of Islamist movements, some of which recruited and trained altogether thousands of non-Syrian mercenary Islamist fighters and deployed them in battle.

There exist several intertwined, yet partially distinct, military conflicts in Syria and Iraq. For the purposes of the thesis, two of them merit a brief contextualization. First, there is the multi-front military conflict waged by, and against, the IS. In Syria, the number of opposition organizations seeking to topple the Assad regime is in hundreds. (The Washington Post 2016) The largest anti-Assad military entity has been the IS. In 2015, of all the parties to the war in Syria, including the Syrian regime, the Islamic State conquered the largest area of Syrian territory. (CNN 2015) The Islamic State has been at war with most, if not all, other parties to the Syrian armed conflict, including the Syrian state apparatus and all of its local allies, Syrian opposition, Russia, Iran, the United States, Turkey and the Syrian Kurdish armed forces.

Secondly, there is the armed conflict involving the predominantly Kurdish areas of Northern Syria. The People's Protection Units (YPG) has been a significant fighting force in the Syrian theatre for a number of years, gradually expanding its sphere of influence far beyond Syria's Kurdish areas. (International Crisis Group 2017, 12) With the exception of minor and insubstantial skirmishes, the YPG has not engaged the forces of Syrian government, nor have Syrian government's forces engaged the YPG. For this reason, I will not categorize the Syrian Kurdish armed forces as part of the Syrian opposition. Rather than fighting the Syrian dictatorship, the YPG and YPJ are waging war against Islamist organizations. Among these battles is the battle for Kobane, a predominantly Kurdish city close to Turkey-Syria border, which was under siege and onslaught by the Islamic State in late 2014.

### **1.5 Rojava enterprise and the IS**

When a wave of civil protests swept across Syria in 2011, the political movements in the predominantly Kurdish areas in Northern Syria assumed a different *modus operandi* from other regions in the country. All other areas in Syria were drawn to the emerging conflict between the state apparatus of the Syrian president Bashar al-Assad, on the one hand, and various opposition formations, on the other. The leading political organizations in the predominantly Kurdish areas in Northern Syria, most of all the largest Kurdish political party in Syrian Kurdistan, the Democratic Union Party (PYD), made a decision to stay out of the battle over the control of Syria that was taking shape in all the largest Syrian cities. Instead, the major political forces in Northern Syria began to maneuver towards a declaration of a multi-ethnic social contract. (Duman 2017, 85) When the forces of the Syrian government began to withdraw from Syrian Kurdistan in the summer of 2012, Syrian Kurdish organizations gradually took control of the whole area. (BBC 2016)

The Democratic Federation of Northern Syria constitutes arguably the only large-scale and successful society-building project currently being carried out in the world. Rejecting statist independence as a political goal, the Syrian Kurdish PYD has lead the efforts to establish democratic autonomous unit *within* the existing state structure. (Federici 2015, 83) The ideology behind the Rojava enterprise is influenced by the political philosophy of the leader of the PKK, Abdullah Öcalan. (Federici 2015, 84)

The Rojava enterprise has not been the only society-building project in Syria. On early June 2014, a political and military organization known as the Islamic State in Iraq and Greater Syria rose to global

prominence by conquering through blitzkrieg two major Iraqi cities, Mosul and Tikrit. On June 29, bolstered by new territorial gains, the entity declared a global caliphate and renamed itself the Islamic State. At the peak of its power, stretching from Diyala Province in Eastern Iraq to Aleppo in Northeastern Syria, the IS yielded until recently a degree of political power greater than that of any other Salafi-Jihadist enterprise in history. (Wilson Center 2016)

The IS leadership has not issued a comprehensive constitution that puts on record the fundamental principles and established precedents according to which the entity is governed. However, statements by IS figureheads combined with published and leaked documents written by IS leadership together form a comprehensive picture of the doctrines and practices that comprise the ideology of the IS. The IS is targeting at least the following three demographics with genocidal policies: the Yazidi community, Shia Muslims and Christians. (The Guardian 2016)

## **1.6 Kurds in Syria**

The Kurds are an indigenous people located in south-eastern Turkey, north-western Iran, northern Iraq, north-eastern Syria and south-western Armenia. The area informally referred to as Kurdistan is a contiguous, predominantly Kurdish region covering parts of Turkey, Syria, Iran and Iraq. In 2000, the Kurds constituted an estimated 7.3% of the total Syrian population. (Encyclopædia Britannica 2017)

The Kurdish minority has faced discrimination by several Syrian regimes, including the current administration of President Bashar al-Assad. The British human rights organization Amnesty International has observed that Syrian Kurds “continued to face identity-based discrimination, including restrictions on use of their language and culture” and that thousands of Syrian Kurds “were effectively stateless and so denied equitable access to social and economic rights.” (Amnesty International 2011) Striking a similar chord, the American human rights group Human Rights Watch has concluded that Syrian Kurds have been “[l]ong marginalized and discriminated against by successive Syrian governments”. (Human Rights Watch 2009, 1)

The history of discrimination targeting Syrian Kurds has elicited theorizing within Kurdish political movements, in particular within the Kurdistan Workers' Party (PKK), on a social contract not based on the premises of a nation-state. Within the PKK network active in southeastern Turkey and northern

Syria, the deprivation of full and equal rights for the Kurdish minority has not led to strengthened Kurdish nationalism or secessionism but, rather, to questioning of the preferability of the nation-state model.

In 2014, the autonomy project was advanced further by a proclamation of a set of political declarations and provisions known as the *Constitution of the Rojava Cantons*, officially *Charter of the Social Contract* (henceforth Rojava Charter). (Grote & Röder 2016, 492) On March 17, 2016, the Kurdish region in Syria declared itself an autonomous federal system. (Deutsche Welle 2016) The autonomous enterprise has not been officially recognized by the Syrian regime or the United Nations. (The New York Times 2015)

### **1.7 Two largest Islamic denominations: Sunni Islam and Shia Islam**

Of the world's total Muslim population of 1.6 billion, 87-90% belong to the largest Islamic denomination known as Sunni Islam. Out of the 1.6 billion Muslims, 10-13% belong to an Islamic denomination known as Shia Islam. (Pew Research Center 2009) The division between Sunni Islam and Shia Islam is a historical dispute over the question of who is the rightful successor of the Prophet Muhammad. Sunni Islam contends that the passing of the Prophet Muhammad marked the end of prophethood and divine revelation and that his successor, the caliph, is a political figurehead whose mandate doesn't extend beyond seeing to the implementation of Sharia. It is believed within Sunni Islam that the companion of Prophet Muhammad, Abu Bakr, was meant to be the heir of Muhammad. (DeLong-Bas 2017)

The Shia assert that Muhammad had named his relative Ali ibn Abi Talib to serve both as a political and religious successor of Muhammad. The Shia believe that Muhammad passed abstruse wisdom solely to Ali, equipping Ali with the unique ability to faultlessly interpret the Quran. In theological terms, the preponderance of Sunni antagonism towards Shia is based on the rejection by Shia of the caliphs and the revering by the Shia of the Imams. The Shia animus towards the Sunni is anchored in the notion that the Sunnis are in contempt of Muhammad's family in the Sunni rejection of the Shia belief that Muhammad passed esoteric knowledge to Ali and, accordingly, in undermining the authority of the Imams. For the preponderance of the history of Islamic civilization, the relationship between the Sunni and the Shia has been one of cordial coexistence. Intermarriages and attending the

same mosques have been widespread. Both denominations perform similar prayers, look on the Quran as their holy book and share faith in the Prophet Muhammad's sayings. (Ibid.)

### 1.8 Salafi-Jihadism

The political system enforced by the IS in territories under its administrative control has its roots in Salafi-Jihadism and Wahhabism. (Bunzel 2015, 9-10.) A strand of Sunni Islamism, Salafi-Jihadism is the politico-religious doctrine of the international Salafi-Jihadist movement. The ideology of the present Salafi-Jihadist movement comprises of two elements. The first element is pertinent to the goal of the movement, that is re-establishing the Islamic order and tradition of the *Salaf*, the pious forefathers. The second element refers to the method of reaching that goal. An armed *jihad*, according to the Salafi-Jihadist interpretation, is a personal duty of all Muslims and through Jihad the Salafi-Jihadist movement intends to lead the Muslim community to the old Islam of the *Salaf*. (Jones et al. 2014, 8) The leadership of the Islamic State has throughout the years underscored that the organization is part of the global stream of Salafi-Jihadism. In 2007, Abu 'Umar al-Baghdadi, the then-leader of the movement made a plea "to all Sunnis, and to the young men of Jihadi-Salafism in particular, across the entire world." (Abu 'Umar al-Baghdadi 2007, in Bunzel 2015, 7) Also in 2007, the aide of Abu 'Umar al-Baghdadi asserted that the movement's fighters are part of "the current of Jihadi-Salafism." (Ibid.) The organizational roots of the IS trace back to the developments in Iraq around the time of the US-led invasion of 2003.

The key figure in Jihadist campaigning in Iraq was the Jordanian Abu Musab al-Zarqawi who entered Iraqi Kurdistan in 2002. Al-Zarqawi headed an organization known as 'Al-Qaeda in Iraq' or 'Al-Qaeda in Mesopotamia' which was a precursor of the IS. In 2006, Al-Qaeda in Iraq changed its name to the Islamic State of Iraq. In 2013, as the organization expanded its sphere of influence from Iraq to Syria, it was renamed as the Islamic State of Iraq and Greater Syria. In 2014, after conquering multiple Iraqi cities, the organization declared the establishment of the Islamic State, a world-wide Caliphate. The role of Al-Zarqawi was crucial in the evolution of both the organization and ideology of the IS. Although Al-Zarqawi was killed in 2006, the political and religious agenda as it is enforced by the IS is identical to the program articulated by Al-Zarqawi. In particular, two principles currently applied by the IS are directly derived from Al-Zarqawi's credo: genocidal sectarianism and re-establishing the caliphate. (Ibid., 14)



## **1.9 Research questions**

The thesis poses five research questions:

- 1) How does the Rojava Charter, the provisional constitution of the Democratic Federation of Northern Syria, relate to the six criteria of a democratic society put forth by scholar Robert Dahl?
- 2) Are there corresponding aspects between the Enlightenment-era social contract philosophy and the ‘Charter of the Social Contract’ of Rojava?
- 3) What is the degree of compatibility between Diamond’s four conditions for democracy and the political preferences of the Iraqi general public?
- 4) Why and how are Diamond’s four conditions for democracy not met by the IS regime.
- 5) How do the political philosophies of the Rojava enterprise and that of the IS relate to modern human rights doctrine?

Each of the five questions will be revisited and answered in Chapter 5.

## **2. Theoretical framework**

The political models of the Islamic State (IS) and the Federation of Northern Syria – Rojava (Rojava) constitute the empirical material of this thesis. Given that the political philosophies of the two non-state entities in Syria are sharply different, the theoretical tools employed in the thesis to analyze both systems must be adaptable yet thorough. Theories utilized in the thesis are democracy, human rights doctrine and social contract theory, respectively. The three philosophical tools will be considered in turn.

Although the normative notion that the people are the ultimate source of political authority appears fairly uncomplicated, there has never been an absolute or universally accepted answer to the question: which political institutions constitute a democratic political system? To understand the degree of variation between democratic structures requires focusing on the political concepts that comprise democracy: ‘the people’ and ‘power’ or ‘to govern’. Initially, ‘the people’ in Athens did not denote all or even a majority of adult Athenians. Today, the Greek capital of Athens subscribes to a ‘demos’ which is profoundly different from the one in Ancient Athens. Underscoring the major societal changes in Western political history since Classical antiquity, this relatively new understanding of ‘demos’ is formally subscribed to by the whole of Greece and by the entire European Union. This chapter will chronicle who constituted ‘demos’ in the rudimentary stages of democratic governance in Ancient Athens and, subsequently, what the current political culture perceives as an all-inclusive ‘demos’. What are some of the most salient changes that have occurred in Western political philosophy during the past hundred years on the question of participation by ‘demos’ in the democratic process? To answer that, I will juxtapose expositions presented by Weber and Schumpeter in the first half of the 20<sup>th</sup> century, on the one hand, with models presented by Dahl and Diamond in the past two decades, on the other.

The evolution and history of human rights is also several millennia old. The emergence of modern human rights is all but a congenial collective effort of weighing ideas among like-minded schools of thought. Quite the contrary, the evolution of human rights law is comprised of a number of intense philosophical disputes between opposing viewpoints. The most well-known disagreement surrounding the drafting of the Universal Declaration of Human Rights (UDHR) was a dispute between moral universalism and moral relativism. In 1947, the American Anthropological Association (AAA) published a well-known critique of the UDHR. The critique, anchored in

prominent moral relativist arguments, accused the UDHR of being a Western project that lacked global applicability. The chapter on human rights will use criticism of the UDHR by the AAA as a vehicle to trace the origins of modern human rights and to evaluate the claim that the UDHR is a Western enterprise. This chapter will demonstrate that a multitude of influences from numerous religious and secular persuasions contributed to what was ultimately coalesced as the modern human rights doctrine.

The third theoretical tool, social contract, also extends to Classical Antiquity, however, this thesis focuses exclusively on social contract hypothesizing by the Enlightenment-era philosophers, in particular that by Kant, Rousseau and Hobbes. The speculation by Kant, Rousseau, Locke and Hobbes on the state of nature and the social pact that would lift the human condition away from the state of nature bear several resemblances to the Rojava Charter, the provisional constitution in Rojava. The official title of the provisional constitution of Rojava is *the Charter of the Social Contract*. That those who drafted the document chose such a title gives reason to ponder whether the content, not just the charter's name, has similarities with social contract theorizing.

## 2.1 Democracy

### 2.1.1 Evolution of demographics constituting ‘demos’

Albeit ‘democracy’ is among the most widely-used concepts in modern political commentary, the depth of the term is perhaps more intricate than is acknowledged in common parlance. The term ‘democracy’ derives from the Greek words ‘demos’ (people) and ‘kratos’ (power, to govern). In its literal meaning, the Greek word ‘dēmokratía’ translates as ‘rule of the people’. In a most narrow sense, the history of democracy extends approximately 2,500 years to Classical Athens. The history of ‘democracy’ as a distinct political model extends from Classical antiquity to the present and, consequently, theorization on democracy as a political concept has its origins in Classical Antiquity. (Cunningham 2002, 212.) If one opts for a loose definition of the term, decision-making practices that closely resemble democratic mechanisms are several more millennia older. (Dahl 1998, 10.) Democracy of Ancient Athens was a model of popular government instituted by a noble Athenian named Cleisthenes (died 508 BC). The main institution of Athenian democracy was the popular assembly, or ‘ekklesia’, which all Athenian male citizens over 18 years of age had access to. ‘Ekklesia’, which granted all of its members the right to speak, yielded the supreme power of setting policy and making new laws. Another organ, ‘boule’ or the council, prepared the agenda for the popular assembly and ensured that its resolutions were put into effect. (Eidinow et. al. 2014.)

In its initial meaning in Classical Athens, those who had access to the Classical Athenian assembly and the council, encompassed Athenian male citizens that formed but a small minority of the population. The Athenian ‘demos’ did not include slaves, women or metics, three demographics which together formed a substantial majority of the Athenian population. (Nippel 2015, 266.) More than two millennia later, Athenians and the whole of Greece have committed themselves to a national constitution that acknowledges a thoroughly different definition of ‘demos’. Reflecting the present broad international consensus on which demographics constitute the ‘demos’, the prevailing Greek constitution specifies that Greek men and women enjoy equal rights and equal obligations, that every person who possesses the qualifications for citizenship are Greek and that all Greeks are equal before the law. (The Constitution of Greece, Article 4.)

The above provisions excerpted from the Greece constitution are standard in national constitutions of European states, Greece included, which together comprise the European Union. The Charter of Fundamental Rights of the European Union specifies that “[e]veryone is equal before the law” (article 20) and that “[a]ny discrimination based on any ground such as *sex, race, colour, ethnic or social*

*origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.*” (The Charter of Fundamental Rights of the European Union 2000, article 21, my emphasis) One might reasonably speculate that such assertions would have struck Ancient Athenians as deeply puzzling, possibly bordering on unintelligible. The variable that has altered the most is in the trajectory of democracy is ‘demos’. Indeed, the definition of ‘demos’ has undergone a profound transformation since its early meaning in Ancient Greece. Indeed, the present meaning of ‘demos’ is hardly recognizable from the ‘demos’ in its ancient Athenian context. The drastic change in ‘demos’ also means that democracy as a political system is by definition dissimilar with the fledgling Athenian democracy in Ancient Greece. The evolution, although vast, has not been haphazard: from the era of the Athenian democracy, several more demographics have been incorporated into ‘demos’, ultimately to an extent that ‘demos’ has become all-inclusive, as underlined in the Greek constitution and the Charter of Fundamental Rights of the European Union.

### **2.1.2 Democracy as leadership selection – Weberian and Schumpeterian approach**

The view that ‘demos’ is to encompass all adults regardless of their ethnicity, sex or other traits ultimately became the hegemonic position in Western societies in the early 20<sup>th</sup> century, as evidenced by the enactment of universal full suffrage throughout the Western world. However, the idea that ‘demos’ is to take significant part in discussing and shaping policy consolidated later in mainstream political philosophy. The early part of the 20<sup>th</sup> century featured pivotal mainstream theorists who advocated for ‘demos’ a minimalist spectator role.

In 1919, when the First World War had just ended, Max Weber, widely regarded as the founder of social studies, had an illuminating exchange about democracy with German general Erich Ludendorff. In this exchange, Weber shed light on his understanding of what a democratic governance could look like:

Ludendorff: Then what do you mean by democracy?

Weber: In a democracy, the people choose a leader in whom they trust. Then the chosen leader says, *"Now shut up and obey me."* People and party are then *no longer free to interfere in his business*.

Ludendorff: I could like such a democracy.

Weber: Later the people can sit in judgment. If the leader has made mistakes--to the gallows with him! (Weber, 2009, 42) (my emphasis)

Weber's exposition contains both a forceful defense of people power and a forceful defense of elitist rule. The people and only the people may choose their leadership, yet, once the leadership has been elected, the public must keep quiet and give free reign to the leader to lead. In Weber's view, a continuous rotation between public input and autocratic rule amounts to the most practical form of democracy. Weber's position calls less for public participation and more for strong leadership, albeit the public can and should give input on who governs.

Echoing Weber's interpretation, prominent American economist and scholar Joseph Schumpeter was disinterested in large-scale public participation in the political process. According to Schumpeter, "the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote." (Schumpeter 1976, 269) Schumpeter's approach to public's participation in the political process was consistent with, and partly a result of, his low regard for the common people. In Schumpeter's view, the will of an individual is merely "an indeterminate bundle of vague impulses loosely playing about given slogans and mistaken impressions." (Ibid., 253) Schumpeter was convinced that the interests and needs of the people may well be accommodated by governments which are not democratic: "both the will and the good of the people may be, and in many historical instances, have been, served just as well or better by governments that cannot be described as democratic." (Ibid., 269-70.)

For Weber and Schumpeter, then, democracy should not be understood as a political system which grants both the individual and the public a mandate to get involved in decision-making. Rather, democracy is a method of selecting leaders who then exercises extensive power. Schumpeter's opposition to a broad involvement of the general public in politics was prominently anti-democratic among influential Western political scientists of the 20th century. To claim that undemocratic governments may serve "the good of the people" (Ibid., 269-70) more efficaciously than democratic ones or that the common people's will is but "an indeterminate bundle of vague impulses" and "mistaken impressions" (Ibid., 253) amounts to disdain for public participation or, at any rate, opposition to the preferability of such participation.

The above defenses of limited democracy by Weber and Schumpeter were both published before the end of the Second World War and were thus unaffected by the emergence of human rights legislation. It was the end of the Second World War and the ensuing international efforts to build a more sustainable global order that entailed a vigorous expansion of individual liberties. Concordantly, the

doctrine that political power should be concentrated in the hands of strong leadership, with relatively limited input by the public, began to lose its status as a hegemonic position in political philosophy.

That ability of ‘demos’ to take part in policy making is valuable in and of itself was not a view that was shared by Weber nor Schumpeter. Schumpeter’s assertion that the will of individuals is ambiguous and liable to false impressions and that the good of the common people can be realized, and at times has been realized, by non-democratic forms of governance begs the question: why exactly was Schumpeter in favor of even limited public participation? If, as Schumpeter implied, individuals lack the expertise required to effectively formulate policy, why then would an arrangement in which the general public has a say on who leads be preferable to an arrangement in which the public has no say whatsoever on neither who governs or what policies are pursued? Schumpeter’s seminal work ‘Capitalism, Socialism and Democracy’ does not provide answers to these concerns.

Weber’s position, although commonplace in his time, raises similar questions. Even if he is to be given the benefit of the doubt in terms of the somewhat humoristic tone of his exchange with Ludendorff, Weber’s line of reasoning is not a defense of democracy in the current sense of the term: Weber grants the general public the mandate to influence who is to become a leader and this person is someone whom the public trusts. However, after placing their trust in a leader, the public is to step aside and let the leader rule unhindered. The latter part of Weber’s argument is more of a defense of benign autocracy than a case for democracy.

Weber emphasizes the role of trust as he states that “[i]n a democracy, the people choose a leader in whom they trust.” (Weber 2009, 42) In a system where the general public is assigned the role of merely “trusting” a leader and keeping it quiet while the leader exercises power (“[t]hen the chosen leader says, “Now shut up and obey me.” People and party are then no longer free to interfere in his business.” [Weber 2009, 42]), instead of having a more interactive relationship with political leadership, the public is allowed to be a part-time spectator rather than an active participant.

From Classical Athens to the major works of Weber and Schumpeter, the transformation of democracy as a political philosophy has been convoluted. American and French revolutions and the industrial revolution consolidated representative democracy in the Western world and the emancipation of women was the most significant expansion of which demographics constitute ‘demos’. Nonetheless, almost two hundred years after the beginning of the American Revolution,

notable mainstream political thinkers such as Weber and Schumpeter regarded as ideal democracy an arrangement in which the mandate of ‘demos’ was one of spectator in a system based on the assumption that strong and competent political leadership is the bedrock of democracy.

### **2.1.3 Outlining conditions for democracy in the late 20th century, early 21st century**

Influential contemporary theorist on democracy, political scientist Larry Diamond names the following four components as essential to and comprising a democratic society:

- “1. A political system for choosing and replacing the government through free and fair elections.
2. *The active participation of the people, as citizens, in politics and civic life.*
3. Protection of the human rights of all citizens.
4. A rule of law, in which the laws and procedures apply equally to all citizens.” (Diamond 2004, my emphasis)

Diamond’s four-part definition, albeit concise, calling for free elections, participation of ‘demos’, human rights protection and the rule of law reflects what has emerged as a broad consensus on the fundamentals of democratic governance that began to take root after the Second World War. As a stark contrast to the preferences harbored by Weber and Schumpeter, Diamond is not only sympathetic to the idea of public taking part in the political process but views “active participation” of the general public “in politics and civic life” as an indispensable condition for a government to be considered democratic. Whereas for Weber and Schumpeter, public input to setting policy was to be heavily limited, Diamond places enthusiastic involvement by the ‘demos’ at the center of democratic society. Weber and Schumpeter were representative of prevalent political attitudes of their time while Diamond’s view is representative of the prevailing current of thought among political scientists in the 21st century. That extensive public participation was viewed by influential Western scholars as a potential threat in the early 20<sup>th</sup> century and, subsequently, a prerequisite for democracy in the late 20<sup>th</sup> century and early 21<sup>st</sup> century indicates a profound change in how an ideal society in general and a democratic society in particular has been perceived.

There was no modern human rights legislation for Weber or Schumpeter to have an opinion about, however, based on both the restricted mandate they assigned to the general public and the rather bleak view Schumpeter had on the average competence of the common people, it would seem plausible to assume that neither Weber or Schumpeter would have been ardent advocates for far-reaching human



rights treaties. Diamond, on the other hand, names human rights protection for all citizens as an individual criterion of, and thus inbuilt in, democracy.

Like that of Diamond, the normative analysis published by political theorist and scholar Robert Dahl differs crucially from the conclusions of Schumpeter and Weber on the question of public participation in the democratic process. For Dahl, a democratic society requires efficacious engagement by its members as well as control over what matters are included into the agenda. Contemplating the conditions for democracy within a hypothetical association, a simplified analogy to a modern society, Dahl reasons that “[b]efore a policy is adopted by the association, all the members must have equal and effective opportunities for making their views known to the other members as to what the policy should be.” (Dahl 1998, 37) Instead of merely detailing how political matters ought to be debated in a democratic context, i.e. the right of all members to speak their mind, Dahl also focuses on how issues are selected for discussion in the first place: “[t]he members must have the exclusive opportunity to decide *how and, if they choose, what matters are to be placed on the agenda.*” (Ibid., 38, my emphasis)

Independent from his perspectives on the broader societal conditions for a healthy democratic process, Dahl was regarded as an eminent theorist who sought to identify the political arrangements that constitute a democratic system. In his seminal monograph *On Democracy*, Dahl sets out the following six criteria that he describes as “the political institutions of modern representative democratic government”:

1. Elected officials. Control over government decisions about policy is constitutionally vested in officials elected by citizens. Thus modern, large-scale democratic governments are representative.
2. Free, fair and frequent elections. Elected officials are chosen in frequent and fairly conducted elections in which coercion is comparatively uncommon.
3. Freedom of expression. Citizens have a right *to express themselves without danger of severe punishment* on political matters broadly defined, *including criticism of officials, the government, the regime*, the socioeconomic order, and the prevailing ideology.
4. Access to alternative sources of information. Citizens have *a right to seek out alternative and independent sources of information* from other citizens, experts, newspapers, magazines, books, telecommunications, and the like. Moreover, alternative sources of information *actually exist that are not under the control of the government or any other single political group* attempting to influence public political beliefs and attitudes, and these alternative sources are effectively protected by law.

5. Associational autonomy. To achieve their various rights, including those required for the effective operation of democratic political institutions, citizens also have *a right to form relatively independent associations or organizations*, including independent political parties and interest groups.

6. Inclusive citizenship. *No adult permanently residing in the country and subject to its laws can be denied the rights that are available to others and are necessary to the five political institutions just listed.* These include the rights to vote in the election of officials in free and fair elections; to run for elective office; to free expression; to form and participate in independent political organizations to have access to independent sources of information; and rights to other liberties and opportunities that may be necessary to the effective operation of the political institutions of large-scale democracy. (Dahl 1998, 85-6, my emphasis)

Dahl proposes that, for a political entity to be regarded truly democratic, all of the six conditions elucidated above must be met. Unlike Diamond's exposition that describes a democratic society in broader terms, Dahl's conditions outline more strictly the conditions essential to a democratic political system. Thus, Dahl does not include a mention, for instance, to adherence to human rights.

The six criteria highlighted by Dahl are both vital and inextricably intertwined. Given that the collective of the citizenry is the utmost source of political authority, citizenship must be an institution that is open and accessible to every adult who is subject to the country's laws and who lives within the borders of that country. Then, this citizenry must be granted the right to establish political organizations and associations that are allowed to exercise, within the boundaries of law, a substantial degree of independence. The citizenry must have the right to seek and access information originating from non-official sources and sources that are not under the control of any single state or non-state structure. Citizens may express themselves freely in general and voice criticism of government policies in particular. Lastly, the preceding criteria, if met, create a set of circumstances in which elections conducted freely, fairly and in a transparent manner produce elected officials who may reasonably be regarded as representative. Thus, ideally, the outcome is a system that brings about policy outputs that reflect the will and preferences of the citizenry.

Conversely, if even one of Dahl's conditions are not met, the end result will change significantly and the system cannot be labelled an open or representative political entity. For Dahl's exposition on democracy is based on a delicate balance between all of the six factors, if the inner dynamics of the six factors is compromised so is the final outcome.

## **2.2 Human Rights**

### **2.2.1 International Bill of Human Rights**

On December 10, 1948, the United Nations General Assembly passed resolution 217 A in Paris, France. 'Resolution 217 A' was titled 'Universal Declaration of Human Rights'. Almost three decades after the UN General Assembly had passed Resolution 217 A, two binding international covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) entered into force. The triad of UDHR, ICCPR and ICESCR came to be called the International Bill of Human Rights. The UDHR-ICCPR-ICESCR triad functions as the bedrock of modern human rights legislation and possesses considerable legal and political influence both on national and international level. (Hannum 1996, 145.)

### **2.2.2 Universal Declaration of Human Rights**

The document that has had the most far-reaching impact on the content of human rights law is the UDHR. The milestone declaration has directly influenced subsequent international human rights treaties, national constitutions and other pieces of legislation. (Hannum 1996, 145) Key international conventions, such as the European Convention on Human Rights (1954) and the International Covenant on Civil and Political Rights (1966) are part of a process of human rights codification initiated by the issuing of the Universal Declaration on Human Rights.

The UDHR was passed by a vote of 48 in favor and eight abstentions.<sup>2</sup> No member of the UN General Assembly voted against the resolution.<sup>3</sup> Attesting to the global prestige attached to the UDHR, the UN World Conference on Human Rights in 1993 stated that the UDHR is a "source of inspiration and has been the basis for the United Nations in making advances in standard setting as contained in the existing international human rights instruments." (The Vienna Declaration and Programme of Action, 1993)

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<sup>2</sup> The eight abstentions were the Soviet Union, Ukrainian SSR, Byelorussian SSR, People's Federal Republic of Yugoslavia, People's Republic of Poland, Union of South Africa, Czechoslovakia, and the Kingdom of Saudi Arabia.

<sup>3</sup> The UDHR is not legally binding. Thus, voting in favor of it should not necessarily be viewed as de facto commitment to its provisions.

### 2.2.3 Civil and political rights

The term ‘civil rights’ derives from ‘ius civis’, Latin for ‘rights of a citizen’. Civil and political rights constitute a category of rights that safeguard the right of an individual from transgressions by other individuals, states and political or social organizations. Civil rights encompass rights that are designed to protect the individuals’ physical and mental safety, to shield individuals from discrimination and to guarantee the right to fair trial and due process. A core function of the ICCPR is to prohibit prejudicial treatment of individuals based on a real or perceived status or characteristic. Emphasizing that the banning of discrimination is anchored in the principle of equality before the law, the ICCPR asserts that “[a]ll persons are *equal before the law and are entitled without any discrimination to the equal protection of the law* [-- and] the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against *discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*.” (ICCPR, Article 26, my emphasis)

Political rights, on the other hand, refer to rights of an individual to take part in a democratic civil society, such as freedom of expression and assembly and the right to vote and the freedom of thought and conscience. Furthermore, a key purpose behind civil rights is a vigorous safeguard of religious freedom. Thus, the ICCPR puts forth a broad definition freedom of religion:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include *freedom to have or to adopt a religion or belief of his choice*, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which *would impair his freedom to have or to adopt a religion or belief of his choice*.
- [--]
4. The States Parties to the present Covenant undertake *to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions*. (ICCPR, article 18.)

The ICCPR does not merely enshrine the right to hold and express religious beliefs but also highlights the right to acquire a religion and the right of parents or legal guardians to give religious education to their children. The ICCPR also prohibits incitement to discrimination or violence based on religion: “Any advocacy of national, racial or *religious* hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” (ICCPR, article 20 [2])

In most cases the distinction between civil and political rights is unambiguous. However, there is overlap between some civil and political rights such as the right to marry and found a family. Such rights are regarded as having a dual or hybrid quality. Burchill 2009, 3-4

#### **2.2.4. Economic, social and cultural rights**

A groundbreaking element within the UDHR are socio-economic human rights known as economic, social and cultural rights. Such rights include the right to a standard of living which is sufficient for well-being and health (UDHR article 25 [1]) and the right to education which must be free at least in the elementary stage (UDHR article 26 [1]).

Incorporation of socio-economic rights in human rights doctrine corroborates that human rights legislation has had tangible input from political philosophies other than liberalism. Socio-economic human rights stem from the line of reasoning employed by the broad tradition Socialist philosophy. In particular three institutions which later incorporated to the post-war UDHR were general suffrage, labor rights and social justice. The consolidation of these three as international human rights norms was primarily a result of Socialist advocacy. American scholar Micheline Ishay calls the socio-economic component within human rights standards “the socialist contribution to human rights” (Ishay 2004a, 9). In the UDHR, the practice of having elections (article 21 [3]), the right to participate in the governance of one’s country (UDHR article 21 [1]), the right to social security (article 22) and the right to rest and leisure and spare-time (UDHR article 24) are enshrined human rights standards which are on an equal footing with all other provisions in the UDHR due to the contribution of labor movements and socialist philosophy.

In 1966, the United Nations General Assembly passed the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been signed and ratified by 164 countries. More comprehensive than the concise and general UDHR, the ICESCR is the principal international source of economic, social and cultural rights. The ICESCR lists in detail what the international consensus regards as economic, social and cultural rights. As the main source of economic, social and cultural rights, the ICESCR was the culmination of years of elaboration on the details and scope of the socio-economic rights first articulated in approximate terms in the UDHR. A preambular paragraph in the ICESCR lays out the core philosophical argument for socio-economic rights: “[the States Parties to the Covenant — recognize] the ideal of free human beings enjoying freedom from fear and want can

only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.” (Preamble of ICESCR)

The cited phrases from the ICESCR – “freedom from fear and want” and “conditions whereby everyone may enjoy his economic, social and cultural rights” – are at the essence of the philosophy of socio-economic rights. Such a position is anchored in an understanding that, as the Vienna Declaration and Programme of Action confirms, human rights are “indivisible, interdependent and interrelated”. (Section I, article [5]) Since the inception of modern human rights, the idea that there exists a delicate indivisibility, interdependency and interrelatedness among all human rights provisions was an essential component of the philosophy of human rights. (Koch, 2009, 103) The improvement of one right contributes to the realization of other rights and, vice versa, the deprivation of one right has an unfavorable effect on the realization of other rights.

#### **2.2.5 Schism between moral universalism and moral relativism**

The term universality in the context of modern human rights has its origins in moral universalism, a meta-ethical point of view contending that there is a universal ethics that cuts across cultural, racial, religious and other lines, thus applying universally to every individual. Denoting that human rights are a birthright of every member of the human family, the principle of universality is also the foundation of international human rights law. The doctrine of universality in human rights legislation has been challenged by those advocating for the credo of moral relativism. Moral relativists assume a meta-ethical position that rejects the existence of universalist ethics and assert that morality is always relative to the belief system, tradition or culture of a group or a social group. Truth in moral assessment, moral relativists argue, cannot be determined in absolute or universalist terms for it never exists in absolute nor universalist terms. Rather, morality is to be assessed solely against the backdrop of the moral standards of a single individual or, often, a group of people who share a distinct moral code. (Velleman 2013, 75-6.)

Arguably the most vocal criticism of universalist ethics and modern human rights legislation has been leveled by moral relativists. A representative exposition of the moral relativist position was put forth by the Executive Board of the AAA in 1947, prior to the issuing of the Universal Declaration of Human Rights by the UN. The AAA had a number of reservations regarding the emerging consensus on the content of the declaration. Statement on Human Rights by the Executive Board of the AAA expresses the following allegations:

“Today the problem is complicated by the fact that the Declaration must be of world-wide *applicability*. It must embrace and recognize the validity of many different ways of life. It will not be *convincing to the Indonesian, the African, the Indian, the Chinese*, if it lies on the same plane as like documents of an earlier period. The rights of Man in the Twentieth Century cannot be circumscribed by *the standards of any single culture*, or be *dictated by the aspirations of any single people*. Such a document will lead to frustration, not realization of the personalities of vast numbers of human beings. Such persons, living in terms of *values not envisaged by a limited Declaration*, will ‘thus be excluded from the freedom of full participation in the only right and proper way of life that can be known to them, the institutions, sanctions and goals that make up the culture of their particular society.’ (AAA 1947, my emphasis)

The above excerpt from the statement by the AAA touches upon several points of contention between moral universalists and moral relativists. Assuming the position in favor of moral relativism, the AAA is concerned about what it designates as the danger of the declaration becoming a narrow proclamation affirming solely one cultural value system, that is “the standards of [a] single culture” which are “dictated by the aspirations of [a] single people”. Such an inflexible document, the AAA claimed, fails to “embrace and recognize the validity of many different ways of life”, causing “frustration” and preventing the “realization of the personalities of vast numbers of human beings” through its dictates.<sup>4</sup>

The assertions by the AAA challenge of moral universalism as a meta-ethical position and call into question the overall legitimacy of issuing a universal human rights declaration. However, the association’s statement fabricates the content and creation of the declaration. In reality, the declaration was an international initiative. Among the drafters of the declaration were P. C. Chang of Republic of China (Taiwan), Charles Malik of Lebanon, Alexander E. Bogomolov of USSR, Hernán Santa Cruz of Chile and Hansa Mehta of India. (Wright 2001, 15) Furthermore, approximately two-thirds of the supporting votes for the UDHR came from non-Western states. Therefore, the claim that the declaration is an affirmation of “the standards of [a] single culture” hardly seems tenable.

The following claim by the AAA, however, merits closer scrutiny: “The rights of Man in the Twentieth Century cannot be circumscribed by the standards of any single culture, or be dictated by the aspirations of any single people.” (AAA 1947) It is correct to argue that Western political and moral philosophy as well as political developments in the West have been crucial in the evolution and consolidation of first the UDHR and subsequently the modern human rights law. However,

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<sup>4</sup> Quotes in this paragraph are from the cited statement by the AAA.

Western influence behind the philosophy of moral universalism and human rights legislation does not mean that the two are exclusively Western phenomena nor that they represent “the standards” of Western culture nor that they unequivocally manifest “the aspirations of” Westerners. These assertions can be challenged with two arguments, one concerning Western history prior to the UDHR and the other concerning the treatment of the UDHR by the government of the United States of America after the issuing of the UDHR.

Keeping in mind that, as demonstrated above, the UDHR was *not* drafted by Western experts but by international experts and that approximately two-thirds of the endorsements for the UDHR were from non-Western countries, the criticism leveled by the AAA assumes that abidance by and respect for the content of the declaration is a *fait accompli* in the Western world. Is such a hypothesis justifiable? Firstly, looking at political history in Western countries before to the UDHR, can one convincingly draw the conclusion that the provisions of the declaration are “the standards” of Western culture? The planning of the UDHR took place in the aftermath of the most destructive war in the history of humanity, the WWII. (Roberts 2012, 29) The world’s first industrialized genocide was carried out in Europe during the war: the Nazi Holocaust was executed by Europeans and it targeted Europeans. In light of the crimes by European countries in WWII, it would be more maintainable to argue that European political culture was inconsistent, rather than consistent, with the value system which the UDHR is based on.

What about the claim that the philosophical content of the UDHR representing Western “standards” and “aspirations”? (AAA, 1947) In 2005, the United States of America voted in favor of the UN World Summit Outcome document. Article 121 of the resolution stresses that “all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and that *all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis.*” (UNGA 2005) (my emphasis) The UN World Summit Outcome document and the American endorsement reiterated a long-standing international consensus that all human rights norms are of equal importance and closely intertwined. Notwithstanding, the U.S. has had hard time living up to this commitment. The U.S. is the only developed country that has not ratified the ICESCR. In 1990, Morris Abrams, who served as the Representative of the United States to the European Office of the United Nations, explained the U.S. government’s opposition to socio-economic human rights. According to Abrams, the U.S. rejects socio-economic rights for the entire notion is a “dangerous incitement” and “little more than an empty vessel into which vague hopes and inchoate expectations can be poured.” (Abrams 1990, in Rosemont 2015, 70) Nine years earlier, the U.S. Ambassador to the UN, Jeane



Kirkpatrick, had described socio-economic human rights as "a letter to Santa Claus". (Kirkpatrick 1981, 332) Statements by the U.S. government, as expressed here by Abrams and Kirkpatrick, indicate that the endorsement of the UDHR is not a *fait accompli* in the U.S. Quite the contrary, one finds long-standing reluctance to embrace certain provisions of the declaration. In light of this, as well as considering that the drafting took place in the immediate aftermath of WWII, the claim by the AAA that the UDHR represents "the standards" of Western culture and manifests "the aspirations of" Westerners seems an overstatement.

### **2.2.6 Diverse origins of universal human rights norms**

In its critique of the notion of universality of human rights in general and the emerging UDHR in particular, the Executive Board of the AAA vouched that "the Declaration must be of world-wide *applicability*. It must embrace and recognize the validity of many different ways of life. It will not be *convincing to the Indonesian, the African, the Indian, the Chinese --.*" (AAA 1947) The claim that the universality of human rights is a distinctly Western concept and does not apply to or resonate with other cultural milieus was and remains among the most established objection to the UDHR. If true, such an observation would indeed be pertinent, but is the allegation that modern ethical standards which the UDHR is based on constitute an exclusively Western philosophical phenomenon?

The Code of Hammurabi<sup>5</sup>, a legal code of Ancient Mesopotamia that dates back approximately 1754 BCE, is commonly regarded as the oldest legal documents that contains provisions specifically regulating the functions of a government; the idea of proportionate punishment and justice were also introduced in the Code of Hammurabi; the oldest remaining written rules advocating for the protection of the environment can be found in Hindu and Buddhist religious texts; the Hebrew Bible touches upon the sanctity of life and universal brotherly affection in the Book of Micah; the Chinese tradition of Ruism, or Confucianism, promoted education for everyone; Islamic doctrine contemplated and commended human solidarity. All of these institutions have played a role in the formation of contemporary human rights – and none of these practices are European or Western. (Ishay 2004a, 7)

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<sup>5</sup> Though the Code of Hammurabi is extremely brutal by modern standards, it was the first systematic codification of people's rights, of rules and sanctions, with special attention to groups like women, children and slaves.

The philosophy of human rights, then, drew on a plethora of worldviews and ethical positions that had prevailed in various cultures and continents around the world for over three millennia. Modern human rights could be described as a global amalgam of religious and secular philosophical tenets. The pool of influences from which the institution of modern human rights was generated is vast in terms of the amount of philosophical processes that have shaped. The time span of these influences is also immense. It bears emphasis that there is no definite beginning of the history of human rights nor a clear-cut beginning of the influences behind human rights. Pointing to such a beginning is an open argument among historians and it will in all likelihood never be resolved in absolute terms. In this thesis, the Code of Hammurabi will be considered a suggestive starting-point of the philosophical and legal precedents that have had an effect on modern human rights, if not the earliest such precedent but, at any rate, amongst the earliest. In the understanding that the Code of Hammurabi is among the earliest instances of philosophical and legal institutions having an impact on the modern conception of human rights, then, the history of philosophical and legal norms that have directly shaped modern human rights encompasses a preponderance of recorded human history.

Strictly on the European domain, the concept of human rights has been influenced by philosophical and legal developments spanning over two thousand years. Classical Greek philosophers, Plato and Aristotle in particular, the Enlightenment-era philosophers and moral philosophy of Renaissance humanism have made significant contributions to the birth of human rights legislation. The role of European philosophy has been pivotal in the emergence of modern human rights. To suggest, however, that human rights are a distinctly European concept appears untenable. As this chapter demonstrates, modern human rights legislation has come into being as a result of and with crucial input from a number of cultural, religious and philosophical traditions from many continents. Furthermore, from 5th to 15th century, the broader civilizational achievements, including progress in moral philosophy, did not take place in the European scene but in cultural, scientific and philosophical developments in Chinese, Indian and Islamic domain. Only the era of the Enlightenment in the 18th century began to shift the momentum of philosophical advancement to Europe. (Ishay 2004b, 362) Thus, contrary to the allegations by the AAA, modern ethics which is the foundation of human rights is a markedly global and intercultural phenomenon with over three millennia of recorded history. Moreover, as demonstrated earlier, the concrete drafting of the UDHR was also a global political endeavor.

## 2.3 Social contract theory

### 2.3.1 Contemplating a pact among free individuals

Among the most conspicuous legacies of the Enlightenment intellectual movement was the contribution by many of its leading philosophers to a theory that came to be known as the social contract. (Korosec 1991, 57 – 81) Social contract theorizing sought to establish logical deductions the starting-point of which was perceived as a primitive and undeveloped human condition that preceded political and legal structures. This condition was conceptualized as the state of nature. For Thomas Hobbes (1588–1679), the first prominent figure of the English Enlightenment, the state of nature is a state in which no political system is enforced and the conduct of individuals revolves around survival and advancing their own immediate interests, often in ways which would have appeared questionable by the moral standards of Hobbes' time. The preponderance of philosophers who spearheaded the tradition of political philosophy in the Enlightenment era concurred that, in the state of nature, natural rights are infinite. Given that the state of nature is fundamentally different from an organized society, seeking to evaluate actions undertaken in the state of nature by the ethical norms of a modern society, Hobbes maintained, would be meaningless and illogical. For that reason, most social contract philosophers asserted that the state of nature is an amoral state. (Rosen & Wolff 1999, 52.)

Political philosophers of the Enlightenment contended that a pact is required for individuals to be able to emancipate from the primordial and undeveloped state of nature and to enter a novel and improved phase. The social contract is an agreement among free individuals who knowingly and willingly come together to establish a power structure. In *On the Common Saying 'This may be true in theory, but it does not apply in practice'*, Immanuel Kant (1724–1804) states that

“[t]his, then, is an *original contract* by means of which a civil and thus completely lawful constitution and commonwealth can alone be established. But we need by no means assume that this contract (*contractus originarius* or *pactum sociale*), based on a coalition of the wills of all private individuals in a nation to form a common, public will for the purposes of rightful legislation, actually exists as a *fact*, for it cannot possibly be so. [—] It is in fact merely an *idea* of reason, which nonetheless has undoubted practical reality; for it can oblige every legislator to frame his laws in such a way that they could have been produced by the united will of a whole nation, and to regard each subject, in so far as he can claim citizenship, as if he had consented with the general will. This is the test of the rightfulness of every public law.” (Kant 1793, in Rosen & Wolff 1999, 64–5, emphasis in original)

The “practical reality” Kant alludes to, that legislators have to consider the general will as a universal principle, reflects the transition that was taking place in Kant’s time and which Kant was contributing to. In most of 15<sup>th</sup> century Europe, feudalism was incrementally displaced by the rise of sovereign states. However, the political institutions enforced in pre-Enlightenment states were starkly different from those enforced in 20<sup>th</sup> and 21<sup>st</sup> century Europe as the former were distinctly undemocratic and autocratic. Kant was among the first philosophers who began introducing democratic tendencies to the discipline of European political thought.

Louis XIV of France, who passed away nine years before Kant was born, was attributed the renowned quip “l’état, c’est moi” (“I am the state”), although it remains unclear whether Louis XIV truly ever said that. Be that as it may, this statement captured the spirit of Europe in 16<sup>th</sup> and 17<sup>th</sup> century. The reasoning of Kant, cited above, like that of many of Kant’s prominent contemporaries, began to deviate from the established tradition of autocracy and began to propose more inclusive ideas and models. The notion of legislators having to give thought to “the unified will of a whole nation” and that this consideration of the general will of the whole community is “the test of rightfulness of every public law” were forceful indicators that the inclination of public intellectuals to conform to and reinforce the autocratic status quo was eroding. (Kant 1793, in Rosen & Wolff 1999, 64–5, emphasis in original)

Kant and Hobbes both were convinced that the final justification for a state, or the source of legitimacy that a state enjoys, must be grounded on the general will of the people. John Locke (1632–1704) and Jean-Jacques Rousseau (1712–1778) were adamant on this condition, namely that the social contract – and, accordingly, the state – has to enjoy an approval by the people, or the general will. These sentiments were a precursor to what later became known as democratic and representative decision-making procedures.

In Kant’s line of thought, a law is legitimate if and only if it has been drafted as if it is the “united will of a whole nation” and the legislators have regarded each and every subject as if “he had consented within the general will”. Kant stresses the essence of his interpretation of the social contract, namely that each subject must give either an explicit or a tacit seal of approval to the sociopolitical order. This line of thinking, echoing Kant’s categorical imperative, imagines a political system that does not exclude any individual member from that society. In the tradition of European political history, such remarks were arguably the first instances in which prominent philosophers were calling for an inclusive political system. It is true that inclusivity as a stated and ostensible ideal

does not by definition entail a flawless democratic system, however, Kant's insistence on consent as a condition for legitimate laws has to be recognized as a deviation from the zeitgeist of autocracy – a system which did not require nor ask for consent from the general public.

In *On the Common Saying 'This may be true in theory, but it does not apply in practice'*, Kant also ponders the conditions for a just social contract and just laws. He states that “*salus publica suprema civitatis lex est* retains its value and authority undiminished” and stresses that it is important that “each remain free to seek his happiness in whatever way he thinks best, so long as he does not violate the lawful freedom and rights of his fellow subjects at large.” (Kant 1793, in Rosen & Wolff 1999, 64–65) The Latin phrase invoked by Kant – *salus publica suprema civitatis lex est* – translates as “public welfare is the supreme law of the state”. Here, too, Kant's reasoning is groundbreaking as he is forcefully deviating from the pre-Enlightenment trend of autocratic political theorizing, a trend that went largely unchallenged in political philosophy.

The conceptualization ‘the general will’ was discussed at length by other philosophers besides Kant, including Rousseau. Rousseau argued that the general will is founded upon the idea that each man shows the same consideration for others and he shows for himself, or even that he shows consideration for others *because* he shows respect for himself:

The undertakings which bind us to the social body are obligatory only because they are mutual; and their nature is such that in fulfilling them we cannot work for others without working for ourselves. *Why is it that the general will is always in the right, and that all continually will the happiness of each one, unless it is because there is not a man who does not think of “each” as meaning him, and consider himself in voting for all?* This proves that equality of rights and the idea of justice which such equality creates *originate in the preference each man gives to himself, and accordingly in the very nature of man*. It proves that the general will, to be really such, must be general in its object as well as its essence; that *it must both come from all and apply to all*; and that it loses its natural rectitude when it is directed to some particular and determinate object, because in such a case we are judging of something foreign to us, and have no true principle of equity to guide us. (Rousseau 2003, 19, my emphasis)

The above exposition by Rousseau anchors the concepts of justice and equality in the notion that each man gives preference to himself and, for he considers all others “as meaning him” (Ibid.), he ends up valuing every individual. Rousseau asserts that the general will has to “come from all and apply to all” (Ibid.) and if it does not, then it may not be regarded as the general will.

### **2.3.2. Differing hypotheses on the human condition in the state of nature, popular sovereignty**

Social contract theorists did not agree on all the finer details that led each of them to champion the notion of a social contract. According to Hobbes, the state of nature entails the right to do anything, including causing physical harm. In *Leviathan*, Hobbes explains that for “as long as this natural right of every man to every thing endureth, there can be no security to any man.” (Hobbes 1651, in Wootton 2008, 172.)

For Hobbes, the human condition will always be one of the state of nature, unless there is an express agreement on the need to establish a power structure. This power structure would serve the key functions of protecting its subjects from each other as well as from external threats. Among leading figures who collectively created the concept of social contract, Hobbes harbored arguably the gloomiest assumptions on the human condition in the state of nature. Hobbes developed the idea of war of all against all, a permanent disorder in which men not only could but also would behave in abhorrent ways. In this state, there is “no knowledge of the face of the earth, no account of time, no arts, no letters, no society, and which is worst of all, continual fear and danger of violent death”. (Hobbes 1651, in Rosen & Wolff 1999, 13.)

As one might expect, if the state of nature is such, then there is an immediate need to unshackle humanity from these horrors. Only a political contract among free men can achieve that goal. Hobbes was not alone in his contention that natural rights are limitless in the state of nature, however, some other philosophers of the Enlightenment did not agree with Hobbes that it is self-evident that human behavior in the state of nature would be aggressive and combative. For Rousseau, it was reasonable to assume that humans in the state of nature were primarily occupied with their own survival and self-preservation, but unlike Hobbes, Rousseau held a rather hopeful and optimistic view on human nature. Rousseau emphasized that compassion and the ability to feel pity towards one’s fellow human beings was inbuilt in the human condition. Accordingly, restricting the purely egoistic inclinations was natural, indeed, that limiting selfish incentives “is a natural feeling, moderating in each individual the activity of love of oneself, contributes to the preservation of the entire species.” (Rousseau 1755, in Spellman 2011, 91)

Jean-Jacques Rousseau’s *Social Contract* remains among the most influential works on social contract theory. Rousseau envisioned a monumental change in the human condition if this transition from the state of nature to forming a society were to occur. In the *Social Contract*, Rousseau asserts

that “[t]he passage from the state of nature to the civil state produces a very remarkable change in man, by substituting justice for instinct in his conduct, and giving his actions the morality they had formerly lacked.” (Rousseau 1762, in Rosen & Wolff 1999, 13)

Although some of Rousseau’s formulations may appear sentimental and grandiose, in his time, the very idea of a semi-democratic social contract was entirely novel. Plato (428–348 BC), for instance, was of the opinion that allowing the general public to steer the political process is comparable to letting the passengers steer a ship. Plato lived roughly two millennia before Rousseau, yet Plato’s analogy was the conventional wisdom through classical antiquity and the medieval period. In short, what Rousseau and his peers were describing and imagining was a leap to the unknown. For Rousseau, a legitimate social contract and its manifestation, the state, required either explicit or tacit consent from the public.

Besides the notion of consent, the principle of popular sovereignty was a key concept of social contract theory. The principle of popular sovereignty maintains that the legitimacy and authority of the state and its government are based on the consent of all individuals concerned and that these individuals, through representatives they have appointed, must be the source of state power. For Locke, individuals who enter into an agreement and form a community then accept, by definition, the principle of majority rule. For him, men who consensually establish a political entity endorse the idea that “the *Majority* have a Right to act and conclude the rest” (Locke 1689, §95, emphasis in original) – in other words, that every individual “puts himself under an Obligation to every one of that Society, to submit to the determination of the *majority* and to be concluded by it.” (Locke 1689, §97, emphasis in original)

Locke articulates that individuals should have the right to choose representatives and that these representatives would then steer the political process. For Locke, elected representatives therefore weren’t mere rulers but, rather, appointees to whom a task of representing the people had been assigned. However, Locke also pointed out that majority rule is an integral part of the social contract and that there will be instances of discontent with the majority decisions. Still, such instances of discontent should not be interpreted as discontent with the very principle of majority rule. Kant echoes similar reasoning with the invocation of the phrase *salus publica suprema civitatis lex est*. The two notions – knowingly entering into a social agreement to form a community and popular sovereignty as a source of political power – tend to be intertwined in most social contract presentations made by

well-known Enlightenment intellectuals. The combination of these ideas by Locke and Kant was key to the Enlightenment-era paradigm shift in political philosophy.



## 2.4 Summary

Tracking the plethora of meanings democracy has conveyed in various historical phases reveals that there is no uniform democracy but a multitude of differing political systems all of which have been called democracies in their own time. The evolution of Classical Athenian ‘dēmokratía’ to what Weber and Schumpeter argued for in the first half of the 20th century contains two parallel conceptual transformations: first, ‘demos’ had developed from a tiny segment of the population into a category that encompasses all adult members of the society, irrespective of gender, ethnicity or social status; second, from a term initially entailing sweeping political power in Classical Athens, ‘kratos’ exercised by the citizenry had regressed to a concept denoting only a limited mandate of spectator democracy. Whereas the Classical Athenian ‘demos’ was highly restricted, the ‘kratos’ or power it yielded was expansive. Reversely, the ‘demos’ in the political arrangement envisioned by Weber and Schumpeter was expansive, but the ‘kratos’ or power assigned to it was limited.

Recent academic expositions on the which conditions constitute a democratic society differ crucially from the viewpoints of Schumpeter of Weber. Distinguished democratic theorists Robert Dahl and Larry Diamond advocate for extensive public involvement in political affairs. Diamond views active participation of the citizenry in political life as one of four pillars of a democracy and in Dahl’s view, citizens must be able to speak and argue freely about political matters and they have opportunity to decide how and what matters should be placed on the agenda.

As elaborated in this chapter, views on the preferred scope of ‘kratos’ have altered greatly among mainstream political scientists and philosophers only in the past century. Weber and Schumpeter proposed a vision for democracy which did adhere to a broad and inclusive ‘demos’ but which granted only a restricted political role for that ‘demos’. For Schumpeter, who might be characterized as a reluctant proponent of democracy, the interests of the common people may be accommodated by governments that are not democratic. For Weber, who struck a similar chord, a leader after having been elected should simply advice the public not to interfere with the political process. There exists a stark contrast between Weber and Schumpeter, on the one hand, and Dahl and Diamond, on the other, regarding the ideal mandate of citizens in a democratic entity. Emancipation of women, abolishment of slavery, inclusive citizenship and a political culture that values public’s participation in political affairs have brought about a new ‘demos’, a new ‘kratos’ and thus a new form of

democracy. Observed against the backdrop of the long history of democratic theorizing, the latest and broadest version of democracy is a relatively contemporary occurrence.

Correspondingly, the human rights doctrine has undergone a long and intricate evolutionary process. Contemporary ethical principles that were articulated in the form of the UDHR and received with vast support worldwide are an outcome of millennia of global religious and secular belief systems. This chapter demonstrates that moral universalism, rather than being a doctrine articulated by any single culture, has its roots in numerous cultures and philosophies. Drawing from various religious and secular tenets from around the world, select principles from different cultures coalesced into what came to be known as human rights norms as a result of an intense international project. The triad of UDHR, ICCPR and ICESCR, or the International Bill of Human Rights, is a product of post-WWII efforts to create a system of robust international human rights standards. A non-binding declaration, the UDHR of 1948 had a lasting effect on international politics, giving impetus to two milestone conventions – the ICCPR and ICESCR – that ultimately established a global human rights regime. Setting binding human rights norms, the UDHR-ICCPR-ICESCR triad has not been without its critics. This chapter has examined the philosophical basis of modern ethics, moral universalism in particular, against the backdrop of an influential critique of the UDHR. As a part of determining the factual accuracy of the cited criticism, the chapter has analyzed the philosophical and political origins of the human rights doctrine. The chapter also documents rejection by the largest Western country, the U.S., to parts of the UDHR, further disproving the oversimplifying claim that the UDHR is tantamount to Western political culture. The post-WWII epoch was distinctive in that humanity had just witnessed a war more devastating than any armed conflict in history. The need to create what gradually emerged as human rights norms was existential. In such a unique era, it is revealing to examine how the dispute between human rights supporters and critics of human rights played out in the international scene: the critics of human rights theory had the opportunity to lay out their line of reasoning to the open marketplace of ideas. Ultimately, the stance of the international community has been crystal clear: the doctrine of moral universalism and its application, human rights legislation, have triumphed: the UDHR was passed without a single opposing vote and the ICCPR and ICESCR have been endorsed and ratified by an overwhelming majority of UN member states.

The chapter has discussed social contract theorizing by Kant, Rousseau, Locke and Hobbes. Before the Age of Enlightenment, it was somewhat unusual to maintain that the legitimacy of political authority ought to be based on a consensual agreement with the general population. The spectrum of various political models that had existed in classical antiquity or the medieval period barely included

such established models. Locke's notion of popular sovereignty theorized on what gradually emerged as representative democratic institutions. Locke also called for obedience towards the majority and argued that even if people were unhappy with a particular decision, they should nonetheless submit to it if it indeed is the will of the majority. For Rousseau, part of social contract speculation was to ponder whether the reason a man shows consideration for others is because he sees others as himself. Rousseau contented that the general will must originate from everyone also apply to everyone and that the very social construct must enjoy approval by the general will. Hobbes is well-known for presenting a deeply unsympathetic portrayal of the state of nature. For Hobbes, there is "no knowledge of the face of the earth, no account of time, no arts, no letters, no society" in the state of nature but there is "continual fear and danger of violent death". (Hobbes 1651, in Rosen & Wolff 1999, 13.) Hobbes' view will later be discussed in the context of the war in Syria. Kant's theorizing on the justness of public laws proposed that lawmakers should view each individual as if he had agreed with the general will. Similar connotations of inclusivity will be detected in the Rojava Charter and analyzed in Chapter 4.3.

### 3. Empirical Analysis: part 1

This chapter examines the ideological foundations of the IS system and the Rojava project, respectively. The section on the IS focuses on the stance of the IS leadership towards law and democracy. The organization's approach towards demographics other than Sunni Muslims will also be scrutinized. For the IS, the primary source material is comprised of a sermon<sup>6</sup> delivered by the IS leader Abu Bakr al-Baghdadi (Al-Baghdadi 2014) in Mosul in June 2014, a document written by the IS in late 2014 titled *Principles in the administration of the Islamic State*<sup>7</sup> (Islamic State 2014) and a publication by the IS titled *Document of the City*<sup>8</sup> (Islamic State 2016) released in January 2016. Primary sources on Rojava comprise of a recently translated compendium of writings by PKK head Öcalan titled *The Political Thought of Abdullah Öcalan: Kurdistan, Woman's Revolution and Democratic Confederalism* (Öcalan 2017) and the provisional constitution of Rojava, or the Rojava Charter (Rojava Charter 2014).

The thesis also refers to primary source material gathered in Iraq by this writer and investigative journalist Ms. Airin Bahmani in January 2016 on the policies developed and carried out by the IS towards the Yazidis, a Kurdish-speaking minority living chiefly in Iraq. The primary source material gathered by this writer and Ms. Bahmani illuminates the IS stance towards religious minorities. Findings by this writer and Ms. Bahmani will be sourced 'Bahmani & Jäntti 2016'. With the exception of Chapters 3.1.5 and 3.1.7, the empirical data in this thesis is comprised of direct quotations from the IS leadership.

This chapter has two sections. The first section (Chapter 3.) presents the empirical material investigated in the thesis with additional commentary providing political or historical context. The second section (Chapter 4.) analyzes the empirical material put forward in the first section of this chapter against the backdrop of the theoretical framing of the thesis. Due to the number of details and

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<sup>6</sup> The leader of the IS made a rare public appearance and delivered a sermon in Mosul's Great Mosque after new territorial gains on June 28, 2014. The speech offers in-depth insight into the philosophical and political ethos of the organization. This thesis cites a digital English language transcript of the sermon, published and translated by the IS.

<sup>7</sup> Acquired, translated and published by the British media outlet The Guardian in 2015, *Principles in the administration of the Islamic State* also sheds light on IS plans on how to manage the use of natural resources, education, industry, military training, foreign relations and public relations.

<sup>8</sup> Clarifying the rights and duties of the subjects in the IS, *Document of the City* was published digitally in January 2016 and it was addressed to all residents of the IS.

technicalities in both the primary source material and the sets of criteria proposed by Diamond and Dahl (Chapter 2.1.3), the thesis will use charts for analyzing the compatibility between 1) Dahl's democracy criteria and the Rojava Charter, 2) Diamond's democracy criteria and the IS model and 3) Diamond's democracy criteria and Iraqi public opinion.

### 3.1 The Islamic State

#### 3.1.1 Law in the IS

The professed basis for the legal order within the IS is *shariah*. In Islam, *shariah* refers to the example of Prophet Muhammad (*sunnah*) and the unchangeable and eternal will of God as it manifests itself in the Quran. There are approximately 90 verses in the Quran that explicitly deal with law and these verses are known as God's law. (Oxford Islamic Studies Online 2017) However, which exact rules constitute Islamic law remains an ongoing, and in all probability, unresolvable, argument among specialists. (Vikør 2005, 1)

Islamic legal tradition views legislation generated by human institutions as potentially error-prone. (Oxford Islamic Studies Online 2017) There is a consensus among scholars specializing in Islamic law that the abstract meaning of *shariah* signifies the will of God for humanity and that it is based on God's revelation. The creed assumed by the IS regards divine law as the sole legitimate source of law. Discussing the prime tactics of Caliphate-building and governance, the IS states the following:

[A]mong the aims of the Islamic programme in the Islamic State:

1. Implanting Islamic values in society as well as sound, *sharia-based societal manners and customs*.

[...]

3. Developing Islamic society on the basis of [--] *sharia*.

[...]

According to the *sharia* politics, the leadership is not allowed to adopt decisions to ally with a state or implement an agreement with it *if that violates Shari'a politics* (Islamic State 2014, my emphasis)

The above excerpt indicates that promoting religious norms that are seen to buttress the overall societal model of the IS is a goal in the internal documents of the organization. At the core of the group's Caliphate-building enterprise is the methodical consolidation of the IS version of *shariah*. The IS aims at nurturing conservative "*shariah-based societal manners and customs*" in order to

create “an Islamic society” based on “*shariah*”. It is reasonable to assume that the rationale of the IS is that the more it manages to encourage the population under its rule to embrace ultraconservative religious norms and customs, the more responsive the population becomes to the IS ethos of theocratic order.

Conforming to the rejection of man-made law, the role of the Caliph as the head of the IS differs from the traditional role of a leader in a political or military organization. Abu Bakr al-Baghdadi has himself asserted that “[i]f [the caliph] orders the people to fear Allah and he is just, then he is rewarded. And if he orders anything else, *then he will be held accountable for that.*” (Al-Baghdadi 2014, in Revkin 2016, 15, my emphasis) Thus, the official role of the caliph in the IS is not merely one of a powerful autocrat. Rather, the caliph is presented as the supreme custodian of divine law with a strict mandate.

### 3.1.2 Singularity of God and positive law

In January 2016, the IS published a document titled *Document of the City* which sheds light on the directives of the organization. Article 7 of the document states that “[God commands that we] establish Islamic governance and [–] *release the people from the shackles of rotten positive laws.*” (Islamic State 2016, my emphasis) Positive law refers to all man-made laws created by courts or legislative bodies and is often contrasted with divine laws. Thus, the ideology of the organization repudiates human-generated law in its entirety. Salafi-Jihadist ideologues, such as Mohammad al-Maqdisi, have suggested that positive laws are tantamount to objects of worship in polytheism. (Revkin 2016, 12) The Salafi-Jihadist school of thought tends to regard man-made legal statutes as breaching *touheed*. In Islam, *touheed* is the concept of singularity of God, the religion’s most fundamental theological principle.

Among the methods employed by the IS to consolidate its regime in areas it has conquered is replacing the previous legal order with its interpretation of *sharia*. Legal practitioners and judges have been systematically attacked and killed by the IS after the organization has conquered towns and cities. In the Syrian city of Aleppo, the IS reportedly put up signs in its courts stating “[n]o dogs or lawyers allowed.” (Islamic State 2016, in Revkin 2016, 12) The IS uses the Islamic concept of *touheed* as a justification to reject modern man-made legislation. If man-made laws resemble objects of worship then recognizing such laws would be akin to rejecting the singularity of God. Dismissing man-made laws is an ideological position within the IS, as is the call to replace positive laws with

Islamic governance. The rejection by the IS of man-made laws was already in place years before Abu Bakr al-Baghdadi assumed leadership of the group. The head of Al-Qaeda in Mesopotamia, the predecessor of the IS, asserted that “[t]he legislator who must be obeyed in a democracy is a man, and not God”, adding that such a practice “is the very essence of heresy and polytheism and error as it contradicts the basis of faith and monotheism.” (Al-Zarqawi 2005, in Bohlen 2015)

### 3.1.3 From Sunni victimhood to Sunni supremacy

The following paragraph from *Principles in the administration of the Islamic State* portrays a relationship between the Sunnis and all other groupings in which the Sunnis are being systematically marginalized:

“All those divisions have also *forbidden the Sunnis from the simplest of their rights* while making the Nusayris [derogatory sectarian slur that refers to the Alawites] masters of the sea, and the Shia in Iraq the kings of oil and the merchant pathways, and the Yazidi Kurds the sheikhs of the mountains while the Druze have become masters over the mountains overseeing Israel. All that has not merely been a coincidence, but it was a dirty political decision in order to implement *a tightening stranglehold on the Sunnis and make them the most remote people and strip them of all assets for advancement or thinking of a rightly-guided Islamic State.*” (Islamic State 2014)

The IS leadership describes the Sunni community as being a target of a coordinated campaign by other religious sects and ethnic groupings which aim to reign over the Sunnis. The allegation by the IS that other religious and ethnic groups are actively trying to gain ascendancy over Sunni communities remains unsubstantiated by the IS. Such an interpretation, however untenable factually, serves a vital purpose in the IS enterprise. The stance of the IS leadership towards minorities and non-Sunni communities is one of hostility and aggressiveness:

“So it has been from the law and sound mind to redraw the borders of the provinces and give lengthy consideration to every development that occurs in the region. Thus we protect *the power of the Sunnis* and strengthen its expansion and focal points, and then special teams can be deployed for fundamental change in the structuring of the regions that are subject to the rule of the Islamic State. And that was what the companions [of the Prophet Muhammad] and after them the caliphs pursued *against every heretic community*: that is, *dispersing* their groupings so there no longer remained any impeding opinion, strength or ability, and *the Muslim alone* remains the master of the state and decision-making and no one is in conflict with him.” (Islamic State 2014, my emphasis)

The above formulations bring to the fore an ethos within the ideology of the IS which bears direct consequences for the concrete IS model: the societal model of the IS is a system of institutionalized Sunni supremacy.<sup>9</sup> The doctrine of Sunni supremacy within the IS manifests itself with prejudiced terminology as well as using the term ‘Islamic’ synonymously with ‘Sunni’:

“With the entry of the second year of the uprising of Syria, the Shia militias of various nationalities entered Syria to fight at the side of the Nusayri-Rafidite [Assad] regime which flaunted its crimes with regards to the Sunnis, which led to a global Islamic uprising represented in the hijra [migration] of thousands of Muslim youths to fight in the rank of the Sunnis from the various regions of the land.”<sup>10</sup> (Islamic State 2014)

The phrase (“the Nusayri-Rafidite [Assad] regime which flaunted its crimes with regards to the Sunnis”) evokes a sectarian, discriminatory and derogatory term “Nusayri-Rafidite” which refers to Alawites and the Shia and is an expression of the ideology of Sunni supremacy. In the lexicon of Sunni supremacism, the derogatory term “Nusayri” is a reference to Abu Shuayb Muhammad Ibn Nusayr who established the Alawite religion. According to Sunni Islamist, the Alawites follow a man rather than God and therefore they are not part of Islam. Rafidha translates as ‘rejectionist’ and is a reference to the Shia for the Shia do not regard Abu Bakr and his successors as having been legitimate rulers after the passing of Prophet Mohammad. (Zelin & Smyth 2014) The phrase “global Islamic uprising represented in the hijra [migration]” refers to the fact that the IS has brought in thousands of foreign Salafi-Jihadist mercenaries to fight in its ranks. Thus, when non-Syrian and non-Iraqi fighters travel to Syria or Iraq to join the ranks of the IS, they are merely “migrating” to the Caliphate.

### **3.1.4 The IS as envisioned by Abu Bakr Al-Baghdadi**

Nom de guerre Abu Bakr al-Baghdadi assumed the leadership of Al-Qaeda in Iraq, the precursor of the IS, in 2010. Al-Baghdadi has spearheaded the organization ever since, through the numerous name changes, leading up all the way to the declaration of the Caliphate. In July 2014, after a successful blitzkrieg campaign brought substantial territorial gains to the IS, al-Baghdadi delivered a

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<sup>9</sup> ‘Supremacy’ is defined by the Oxford English Dictionary as “the state or condition of being superior to all others in authority, power, or status.” As demonstrated in this thesis, this definition is an apt description of the Sunni status within the IS model, both in theory and in practice.

<sup>10</sup> It is estimated that the number of individuals who have been recruited and brought to Syria and Iraq by the IS and other Sunni militant factions is between 27,000 and 31,000. (The Soufan Group 2015) Given that it has been the IS that has been the main organizer behind this sizable influx of Islamists to Syria and Iraq, it is noteworthy that the IS leadership nonetheless decided to level the above allegation against the regime.



sermon in Mosul. In the sermon, al-Baghdadi defines what he deems the “two camps” in today’s world, a world in which there is “no third camp present”. Al-Baghdadi states the following:

“The world today has been divided into two camps and two trenches, with no third camp present: The camp of Islam and faith, and the camp of kufr (disbelief) and hypocrisy – the camp of the Muslims and the mujahidin everywhere, and the camp of *the Jews, the crusaders, their allies, and with them the rest of the nations and religions of kufr, all being led by America and Russia, and being mobilized by the Jews*. [--] The Muslims were defeated after the fall of their khilāfah [caliphate]. Then their state ceased to exist, so the disbelievers were able to weaken and humiliate the Muslims, dominate them in every region, plunder their wealth and resources, and rob them of their rights. They accomplished this by attacking and occupying their lands, placing their treacherous agents in power to rule the Muslims with an iron fist, and *spreading dazzling and deceptive slogans* such as: civilization, peace, *co-existence, freedom, democracy, secularism, baathism, nationalism, and patriotism, among other false slogans.*” (Al-Baghdadi 2014, my emphasis)

Vindictive and belligerent, the picture of the world propagated by the IS is based on a rigid dichotomy and confrontation between all other states, faiths and sects, on the one hand, and the IS, on the other. Advocating for a decisive revanche, the IS presents its expansionism as a natural reaction to the threat posed by “the camp of kufr (disbelief) and hypocrisy”. The anti-Semitism of al-Baghdadi’s remarks show the discriminatory incitement purveyed by the IS is not limited to the Shia and Alawites. According to the IS doctrine, the Jews have “mobilized” the United States of America, Russia and “the rest of the nations and religions of the kufr [infidels]”. The above quote also marks an express rejection of “freedom” and “democracy”. Freedom, co-existence, secularism and democracy are labeled “false slogans.”

Abu Bakr al-Baghdadi claims that “the disbelievers” are “attacking and occupying [Sunni Muslim] lands, placing their treacherous agents in power to rule the Muslims with an iron fist”. Rather than describing an attack by “the disbelievers” against Sunni Muslims, a phenomenon that is not substantiated by solid evidence, the above allegation is in fact an apt description of the *modus operandi* of the IS in its conquest of vast swathes of Syrian and Iraqi territory which it then “rules – with an iron fist” through its “treacherous agents”.

[B]y Allah’s grace – you have a state and *khilāfah*, which will return your dignity, might, rights, and leadership. *It is a state where the Arab and non-Arab, the white man and black man, the easterner and westerner* are all brothers. It is a khilāfah that gathered the Caucasian, Indian, Chinese, Shāmī, Iraqi, Yemeni, Egyptian, Maghribī (North African), American, French, German, and Australian. Allah brought their hearts together, and thus, they became brothers by His grace, loving each other for the sake of Allah, standing in a single trench, defending and guarding each other, and sacrificing themselves for one

another. Their blood mixed and became one, *under a single flag and goal, in one pavilion, enjoying this blessing, the blessing of faithful brotherhood*. If kings were to taste this blessing, they would abandon their kingdoms and fight over this grace. So all praise and thanks are due to Allah. (Al-Baghdadi 2014, my emphasis)

The advantaged demographic, then, is not a specific ethnicity or nationality. Rather, the IS envisions a supremacist demographic that is comprised of members who are ethnically diverse but who identify as Sunni Muslims (“a state where the Arab and non-Arab, the white man and black man, the easterner and westerner are all brothers” [Al-Baghdadi 2014]).

### **3.1.5 Discrimination against Christians: *dhimmi* pact and *jizya***

Besides hostile rhetoric, the IS has instituted specific practices in order to disadvantage non-Muslim communities. Two institutions that are designed to put religious minorities at a disadvantage, the Christian communities in particular, are an Islamic *dhimmi* pact and *jizya*. Traditionally, the *dhimmi* pact has been utilized to keep religious minorities from harm, the IS has appropriated the practice for the opposite purpose. As defined by the IS head Abu Bakr Al-Baghdadi in his edict in February 26, 2014, the *dhimmi* pact of the IS orders several impediments on Christians. (Caris & Reynolds 2014, 16)

The *dhimmi* pact stipulates that Christians are not allowed to erect new or renovate any existing religious structures nor express their religious identity outside churches. In Raqqa, the capital of the IS from 2014 until October 2017, the organization has exacerbated the marginalization of the city’s Christian population using the *dhimmi* pact. Another discriminatory practice targeting Christian communities in IS-controlled areas is *jizya*. *Jizya* is a tax imposed on religious grounds on non-Muslims. Muslims are exempt from paying *jizya*. In Raqqa, non-Muslims are obliged to pay *jizya* every six months. A failure to pay *jizya* jeopardizes one’s right to continue to live in the IS. (Ibid.)

### **3.1.6 Demanding and implementing genocide**

The IS is arguably the only warring party in Syria and Iraq that espouses genocidal rhetoric and has carried out genocidal programs. In 2014, the organization stated the following:

And today it is *necessary to have a studied plan* that responds in kind and brings about like change in the profane abode of disbelief, expelling its people and *killing its people until there is no base for them* and the land is for God and his servants. (Islamic State 2014, my emphasis)

The IS calls for direct action to be taken against “profane abode of disbelief”. Referring to all demographics other than Sunni Muslims, “profane abode of disbelief” must be “expelled” and “killed”. After the policies of expulsion and killing have succeeded, the IS asserts, a homogenous Sunni Muslim entity will finally be achieved (“and the land is for God and his servants”). The phrase “and killing its people until there is no base for them” can be regarded as an express intent to commit the crime of genocide.<sup>11</sup> The IS is targeting at least three populations with genocidal programs: the Yazidis, the Shia and Christians.<sup>12</sup> (The Guardian 2016)

### **3.1.7 Specialized investigation of treatment of the Yazidis by the IS**

The genocidal policies of the IS agenda extend beyond intentions, into an extensive programme of extermination. The fate of the Yazidis is a case in point. The Yazidis are a religious minority of ethnically Kurdish descent. The total number of Yazidis is unknown, various sources providing estimates between 70,000 and 500,000. (BBC 2014) Most of the world’s Yazidis live in the Sinjar region of Iraqi Kurdistan which located around 152 kilometers from the Iraqi-Syrian border. On August 3, 2014, fighters of the IS swept across Sinjar in a surprise attack, rapidly conquering the entire region. In weeks following the IS capture of Sinjar, information began to accumulate on kidnappings of thousands of Yazidis by the IS as well as acts of violence been committed by the IS against the Yazidis. In a matter of months, it was revealed that the IS had set up markets in which women and girls of Yazidi descent had been sold within the IS organization. (UN Human Rights Council 2016, 3)

In January 2016, this writer and investigative journalist Ms. Airin Bahmani examined in Iraq practices by the IS towards adult and child prisoners of Yazidi descent. While international organizations and

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<sup>11</sup> In the Rome Statute of the International Criminal Court, the definition of the crime of genocide is set as follows: “For the purpose of this Statute, “genocide” means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.” (The Rome Statute, Article 6.)

<sup>12</sup> The then-Secretary of State of the United States of America John Kerry stated in 2016 that “[the IS is] responsible for genocide against groups in areas under its control including Yazidis, Christians and Shia Muslims.” (The Guardian 2016)

media outlets have covered multiple abuses<sup>13</sup> committed by the IS against the Yazidis, one aspect of these abuses had gone largely unreported: a program of dehumanization and re-education towards thousands of child prisoners who have been or still remain in the custody of the IS. The totality of 19 in-depth interviews with former prisoners of IS indicates that IS is carrying out a sweeping assault on children's rights. The attack by IS on the rights of the child extends beyond torture, sexual abuse and killing of minors.<sup>14 15</sup>

Freed Yazidi prisoners described how IS members carried out what IS fighters called "education" (henceforth *IS re-education*). IS child prisoners of Yazidi descent are subjected to a program that breaks them apart mentally and physically. Using life-threatening forms of physical violence, psychological torture and coercion, IS members are inculcating, in the course of months, the notion of inborn Yazidi inferiority and absolute IS superiority in the child prisoners. IS re-education includes degrading the Yazidi people and religion, praising the IS version of Sunni Islam, forcing child prisoners to practice the IS-version of the Sunni Muslim faith and instilling deep-seated fear of and respect for the IS enterprise in the child prisoners. Parents interviewed by this writer and Ms. Bahmani noted that IS re-education has fundamentally altered the behavior and psyche of their children. The

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<sup>13</sup> The UN Human Rights Council has conducted thorough research on the practices comprising the the sexual enslavement of Yazidis. In a report titled "They came to destroy": ISIS Crimes Against the Yazidis, the UN Human Rights Council provides the following account on one aspect of IS enslavement program: "Once sold, the Yazidi females are the sole property of their fighter-owner, who can re-sell, gift, or will them to other ISIS fighters. ISIS fighters threaten to kill women and girls who resist rape. Resistance is also routinely met with beatings and threats against any children the Yazidi woman has with her. ISIS fighters block escape attempts by refusing to provide Yazidi women and girls with clothing that would allow them to move unnoticed in the streets. Escape attempts have been met with extreme violence including the killing of the women's children, gang rape, rape, and beatings. Yazidi women and girls are also forced to work for the ISIS fighters and their families, including being made to cook, clean and wash clothes. Throughout their captivity, captured Yazidi women and children are treated as less than human and undeserving of respect and dignity, due to their status as "dirty infidels"." (UN Human Rights Council, 2016, 23)

<sup>14</sup> Bahmani & Jäntti 2016. Primary source material authenticating this interpretation was gathered by this writer and Ms. Bahmani in three UN refugee camps in Iraqi Kurdistan between December 2015 and January 2016. The totality of the interviewees approximates a representative sample of the Yazidi prisoner population held by the IS.

<sup>15</sup> Besides documentation on IS re-education, we compiled extensive material on other crimes against children by IS. Mothers whom we interviewed described multiple cases where their children, from newborns to teens, were tortured, mutilated or torn to pieces by IS fighters. An interviewee attested that an IS fighter bite off chunks of flesh of a crying baby's chest, gouged her eyes out and shattered her skull in front of the baby's mother and other prisoners. As a routine practice, Yazidi babies and young children were held in small bags and boxes for sustained periods of time. When their mothers had at times opened the bags or boxes and caressed their children, without permission from IS members, the babies were beaten, kicked and in several instances murdered in front of their mothers and other prisoners

ideological doctrine of Sunni supremacy and the methodology of war crimes and crimes against humanity are employed in IS re-education.<sup>16</sup>

Multiple interviewees corroborated to this writer how members of the IS verbally expressed that the Yazidi people must be exterminated for being Yazidis. (Bahmani & Jäntti 2016) Statements by IS personnel, as documented in several testimonials by Yazidi interviewees, are compatible with the definition of genocide in the Rome Statute of the International Criminal Court, specifically with the key clarification that genocide refers to actions undertaken “with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group”. (The Rome Statute, Article 6)<sup>17</sup>

The primary source material compiled by this writer and Ms. Bahmani establishes evidence that, after conquering Sinjar and kidnapping thousands of Yazidis, the IS instigated an institution of slavery that was put into effect within the entire territory under IS control across Syria and Iraq. Besides sexual slavery, the IS is exploiting its prisoners through chattel slavery which entails enslavement in areas such as agriculture and housework. Several freed Yazidi prisoners interviewed by this writer attested that they were traded as slaves within the IS and shipped from one IS base to another in both Iraq and Syria. In many cases, our interviewees reported they were sold to and shipped between IS fighters in Mosul, Raqqa and Tal Afar.<sup>18</sup> As corroborated by testimonial statements compiled by this writer and Ms. Bahmani, the IS personnel expressly stated to the Yazidi slaves that Yazidis deserve to be either exterminated or enslaved.<sup>19</sup>

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<sup>16</sup> Bahmani & Jäntti 2016.

<sup>17</sup> On the IS genocide against the Yazidis, the UN Human Rights Council states: “ISIS has committed the crime of genocide as well as multiple crimes against humanity and war crimes against the Yazidis, thousands of whom are held captive in the Syrian Arab Republic where they are subjected to almost unimaginable horrors.” (UN Human Rights Council 2016, 1.)

<sup>18</sup> Bahmani & Jäntti 2016.

<sup>19</sup> Ibid.

### 3.2. Öcalan's political philosophy

At the core of the political model envisioned by the PYD-PKK network is the notion by Öcalan of stateless democracy in which what is perceived to be intrinsic coerciveness of a state structure is replaced by local, consensus-based system of participatory democracy. The model is referred to as democratic confederalism which Öcalan proposes as an alternative to the nation-state:

“This kind of rule or administration can be called a non-state political administration or *a democracy without a state*. Democratic decision-making processes must not be confused with the processes known from public administration. States only administrate while democracies govern. States are founded on power; democracies are based on collective consensus. [--] Democracies use direct elections. The state uses coercion as a legitimate means. Democracies rest on voluntary participation. *Democratic confederalism is open towards other political groups and factions*. It is flexible, *multi-cultural*, anti-monopolistic, and consensus-oriented. Ecology and feminism are central pillars.” (Öcalan 2017, 70-1, my emphasis)

In his theorizing on democratic confederalism, Öcalan envisions a political movement which abandons nationalistic tendencies:

Democratic confederalism in Kurdistan is an *anti-nationalist movement* as well. It aims at realizing the right of self-defense of the peoples by the *advancement of democracy* in all parts of Kurdistan *without questioning the existing political borders*. Its goal is *not* the foundation of a Kurdish nation-state. The movement intends to establish federal structures in Iran, Turkey, Syria, and Iraq that are open for all Kurds and at the same time form an umbrella confederation for all four parts of Kurdistan. (Öcalan 2017, 34, my emphasis)

Democratic confederalism, then, abandons the political goal of establishing an independent nation-state for the Kurdish people. Öcalan regards democratic confederalism as a transborder political project which does not seek to outright eliminate the borders between Turkey, Iran, Iraq and Syria but intends to build non-state structures of democracy (“the advancement of democracy in all parts of Kurdistan without questioning the existing political borders”). It is not necessary to dismantle the borders of the four states for democratic confederalism, Öcalan argues, does not require a state apparatus and it can thus be promulgated irrespective of borders. The expansion of democratic confederalism to the Kurdish-majority areas of all four countries, Öcalan contends, could bring about a loose political structure that would partly transcend the inter-state borders of the broader Kurdistan region (“an umbrella confederation for all four parts of Kurdistan”).

As deliberated by Öcalan, democratic confederalism strives towards decentralization and localized democracy:

Democratic confederalism is *based on grass-roots participation*. Its *decision-making processes lie with the communities*. Higher levels only serve the coordination and implementation of the will of the communities that send their delegates to the general assemblies. For limited space of time they are both mouthpiece and executive institutions. However, the *basic power of decision rests with the local grass-roots institutions*. The propagation of grass-roots democracy is elementary. It is the only approach that *can cope with diverse ethnic groups, religions, and class differences*. It also goes together well with the traditional confederate structure of the society. (Öcalan 2017, 78, my emphasis)

For Öcalan, an ideal political model strives for a substantial degree of both democratic structures but also democratic participation (“[d]emocratic confederalism is based on grass-roots participation”; “decision-making processes lie with the communities”). Part of the reasoning proposed by Öcalan is the estimation that community-based and grass-roots democracy is a political model that is better suited to accommodate the diversity of multiple ethnicities and religious belief systems:

Terms like federalism or self-administration as they can be found in liberal democracies *need to be conceived anew*. Essentially, they should not be conceived as *hierarchical levels of the administration of the nation-state* but rather as *central tools of social expression and participation*. This, in turn, will advance the politicization of the society. We do not need big theories here, what we need is the will to lend expression to the social needs by strengthening the autonomy of the social actors structurally and by creating the conditions for the organization of the society as a whole. The creation of an operational level where *all kinds of social and political groups, religious communities, or intellectual tendencies can express themselves directly in all local decision-making processes can also be called participative democracy*. *The stronger the participation the more powerful is this kind of democracy*. (Öcalan 2017, 26-7, my emphasis)

Here Öcalan presents his hypothesis according to which the prevailing system of liberal democracy does not enable genuine democracy. The train of thought begins with what Öcalan regards as the “federalism” and “self-administration” as they exist in liberal democracies. For Öcalan, federalism and self-administration in the context of a liberal democratic nation state amount to “hierarchical levels” of administration. Instead, Öcalan argues, federalism and self-administration should be transformed into “tools of social expression and participation”. He proposes that such an outcome can be achieved with the grassroots structure of democratic confederalism. The transformation is based largely on the ideal that democratic confederalism fosters inclusivity by granting the right and

means of self-expression to “all kinds of social and political groups, religious communities, or intellectual tendencies”. By incorporating “all” social, political, religious and intellectual trends, democratic confederalism increases the democratic mandate of individuals and communities. The goal is to include all such demographics in the democratic confederalist system of “local decision-making” which, then, could accurately be labelled a “participative democracy”. Öcalan proposes that when the degree of public participation increases so does the depth of democracy. For Öcalan, liberal democracy of a nation state only allows for a restricted degree of democracy whereas democratic confederalism attempts to augment the level of democracy.

In his critique of nationalism, Öcalan cites Armenian and Assyrian genocides, executed by the Ottoman Empire and the Young Turks government, respectively, in early 20<sup>th</sup> century. Öcalan also claims that nationalism and patriarchal traditions are connected. Thus, emancipating from nationalism may open way to the emancipation of women:

Kurdistan had also been home to Armenian and Aramaic minorities before these fell victims to genocides. There are also smaller groups of Arabs and Turks. Even today there are many different religions and faiths living side by side there. [--] All these properties are a blessing for new democratic political formations. [--] The situation is also favorable for the development of an ethical political society. [--] This is beneficial for the establishment of a democratic society where women’s freedom and equality are to form one of the main pillars. It also offers the conditions for the creation of a democratic environment-friendly nation in line with the paradigm of the democratic modernity. *The construction of a democratic nation based on multi-national identities is the ideal solution when faced with the dead-end street nation-state.* The emerging entity could become a blueprint for the entire Middle East and expand dynamically into neighboring countries. (Öcalan 2017, 38-9, my emphasis)

Citing the Assyrian and Armenian genocides carried out by the Ottoman Empire in its last decade, Öcalan brings to fore what he perceives as the perils of a political system that lacks the inclusive characteristics fostered in democratic confederalism. Öcalan also stresses that the diversity of the past has not vanished (“[e]ven today there are many different religions and faiths living side by side” in the Kurdistan area). Besides seeking to emancipate from politics that is non-inclusive in terms of ethnicity, culture or religion, the above excerpt stresses a key goal of Öcalan’s democratic confederalism: the desire to eradicate all forms of gender discrimination (“a democratic society where women’s freedom and equality are to form one of the main pillars”).

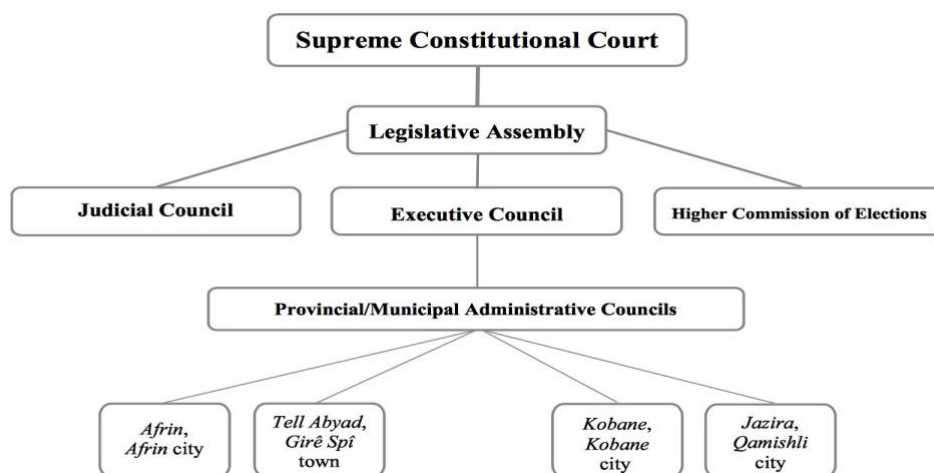


### 3.3 Rojava Charter

The self-declared autonomous area of Rojava comprises of three cantons: Jazira, Kobane and Afrin. The three cantons are independent and each have their own constitution, executive branch, legislature and communal administration. Jazira, Kobane and Afrin have complete control over their social services and educational systems and all have their own police and defense apparatuses. (Kurdistan National Congress 2014, 13) Although Jazira, Kobane and Afrin are self-governing, the three cantons share a contractual obligation to abide by the Rojava Charter, the supreme social contract of the three cantons. (Hosseini 2016, 257) The political system thus permits cantons to enjoy extensive administrative independence, including the mandate to pass their own laws. However, all legislation must be compatible with the Rojava Charter.

Having multiple cantons instead of one single entity also serves the purpose of reducing ethnic and religious strife. Kobane, for instance, has an overwhelming Kurdish majority, whereas Jazira has multiple minority communities, including Arabs, Assyrians, Armenians and Chechens. The Rojava Charter grants communities the right to provide education in their own language. Jazira, for example, formally recognizes Aramaic and Arabic alongside Kurdish. (Hosseini 2016, 257)

The three autonomous regions of Jazira, Kobane and Afrin elect the Legislative Assembly which nominates the members for the Supreme Constitutional Court as well as local Judicial Courts. The administrative structure in individual cantons is comprised of a local Judicial Council, local Executive Council, local Electoral Council and Provincial Municipal Councils.



Organizational chart of government institutions the Federation of Northern Syria – Rojava as per the Rojava Charter. (Loqman Radpey & Gregory Rose [2017], 77)

### **3.3.1 The right to self-determination, human rights and language rights**

Rojava Charter endorses human rights and the right of peoples to self-determination. Article 20 states that the Rojava Charter acknowledges “international human rights treaties, conventions and declarations” as “inviolable”. The charter clarifies that this commitment refers to “the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, as well as other internationally recognized human rights conventions.” (Article 21)

The preambular paragraphs of the Rojava Charter declares the establishment of a social contract based on inclusivity:

*We, the people of the Democratic Autonomous Regions of Afrin, Jazira and Kobane [--]freely and solemnly declare and establish this Charter, which has been drafted according to the principles of Democratic Autonomy. In pursuit of freedom, justice, dignity and democracy and led by principles of equality and environmental sustainability, the Charter proclaims a new social contract, based upon mutual and peaceful coexistence and understanding between all strands of society. It protects fundamental human rights and liberties and reaffirms the peoples’ right to self-determination. Under the Charter, we, the people of the Autonomous Regions, unite in the spirit of reconciliation, pluralism and democratic participation so that all may express themselves freely in public life. [--] In establishing this Charter, we declare a political system and civil administration founded upon a social contract that reconciles the rich mosaic of Syria through a transitional phase from dictatorship, civil war and destruction, to a new democratic society where civic life and social justice are preserved. (Rojava Charter, excerpts from preambular paragraphs, my emphasis)*

The very charter begins with the acknowledgement that Northern Syria is multi-ethnic, that “confederation” is comprised of these ethnicities and that these ethnicities “freely -- declare” the establishment of the Charter. Article 9 of the Rojava Charter explicitly prescribes that the official languages in all three cantons of Northern Syria are “Kurdish, Arabic and Syriac”. All individual communities have “the right to teach and be taught in their native language.” (Article 9)

### **3.3.2 Rights of women**

Women face structural discrimination in Syria. Syrian penal code regards an "honor" motive as an extenuating circumstance. (UNICEF 2011, 2) A crime that is committed in the name of "honor" generates a more merciful sentence than one committed without the "honor" motive. Such a practice has a detrimental impact on the realization of women's rights. Syrian legal code also enables a rapist

to elude punishment if the rapist marries the victim. Also, the Syrian penal code does not criminalize marital rape or domestic violence. (Ibid.) Syrian civil and criminal courts do not differentiate between a testimony given by a woman and one given by a man. However, the Sharia courts discriminate against women and a testimony by a woman has only half the weight of that given by a man. (Ibid., 1)

Besides discrimination in law, the overall societal status of women in Syria ranks low by international standards. The United Nations Development Programme has initiated an index called the Gender Inequality Index which records the degree of gender inequality around the world. The Gender Inequality Index measures the loss of achievement that is primarily due to gender by focusing on reproductive health, empowerment, and participation in labor market. In Gender Inequality Index of 2015, Syria is ranked as 149<sup>th</sup> among the world's countries in terms of gender equality. (The United Nations Development Programme 2015)

Assessed against the backdrop of discriminatory legal procedures marginalizing Syrian women as well as the overall societal status of Syrian women, as evinced in the ranking of Syria in the Gender Inequality Index, it is noteworthy that the Rojava Charter makes an explicit commitment to the issue of women's rights.

Women have the inviolable right to participate in political, social, economic and cultural life. (Article 27)

Men and women are equal in the eyes of the law. The Charter guarantees the effective realization of equality of women and mandates public institutions to work towards the elimination of gender discrimination. (Article 28)

The Rojava Charter defines the right of women to participate in political, social, economic and cultural life as "inviolable" (article 27) and orders all public institutions to eliminate gender discrimination (article 28).

### **3.3.3 Pluralism and diversity in the Rojava Charter**

The Rojava Charter has been drafted in the midst of war. Recalling the diversity within the Federation of Northern Syria as well as added pressures and potential tensions created by armed conflict, the Charter stresses the following:

[u]nder the Charter, we, the people of the Autonomous Regions, unite in the spirit of *reconciliation, pluralism and democratic participation* so that all may express themselves freely in public life. In building a society free from *authoritarianism*, militarism, centralism and *the intervention of religious authority in public affairs* (preamble, my emphasis)

In exercising the right to freedom of association, political, economic and cultural expression of all communities is protected. *This serves to protect the rich and diverse heritage of the peoples of the Autonomous Regions.* (Article 32 b., my emphasis)

The Yezidi religion is a recognized religion and its adherents' rights to freedom of association and expression is explicitly protected. The protection of Yezidi religious, social and cultural life may be guaranteed through the passage of laws by the Legislative Assembly. (Article 32 c.)

Persecution on religious grounds is prohibited in the Rojava Charter: "No one shall be subjected to persecution on the grounds of their religious beliefs." (Article 31) The Rojava Charter incorporates the principle of separation of religion and state, adding the following:

Freedom of religion shall be protected. All religions and faiths in the Autonomous Regions shall be respected. The right to exercise religious beliefs shall be guaranteed, insofar as it does not adversely affect the public good. (Article 92)

The above preambular excerpt brings to fore the stated commitment of the Rojava Charter to a democratic, pluralistic and secular society. The Charter envisions a political order that strives towards harmonious relations between communities in the midst of war and conflict ("the people of the Autonomous Regions [--] unite in the spirit of reconciliation"), strengthens the involvement of the general public with political life ("the spirit of [--] democratic participation"), rejects autocratic rule ("a society free from authoritarianism") and seeks to thwart the domination by religious communities over the rest of the society ("free from [--] the intervention of religious authority in public affairs").

### 3.3.4 Approaching the Rojava Charter through Dahl's democracy criteria

#### 3.3.4.1 Rojava Charter and democratic process

Öcalan's theorizing on democratic confederalism calls for "a democracy without a state" (Öcalan 2017, 70) and the Rojava Charter stresses the importance of "democratic participation" (preambular paragraph of the Rojava Charter). What is the depth of democracy in the Rojava Charter? This chapter approaches the Rojava Charter through Dahl's six criteria for a democratic society, pinpointing specific articles in the charter that are pertinent to determining the degree of compatibility between the Rojava Charter and the conditions set forth by Dahl.

#### 3.3.4.2 Selection of officials in Rojava

The selection process of public officials in Rojava is based on the principle of representative democracy:

Authority resides with and emanates from the people of the Autonomous Regions. It is exercised by governing councils and public institutions *elected by popular vote*. (Article 2 a., my emphasis)

*The people constitute the sole source of legitimacy* of all governing councils and public institutions, which are *founded on democratic principles* essential to a free society. (Article 2 b., my emphasis)

Article 2 states that political authority belongs to and originates from the people of Rojava. Authority is exercised by "councils" as well as "public institutions" both of which are elected "by popular vote". The article further clarifies that the Rojava Charter recognizes "the people" as the only "source of legitimacy" of all the "governing councils and public institutions" and that the councils and public institutions are grounded on "democratic principles" that are vital for "a free society".

Cantons may freely elect their *representatives and representative bodies*, and may pursue their rights insofar as it does not contravene the articles of the Charter. (Article 8, my emphasis)

Local Councils in each province of the Autonomous Regions shall be formed through *direct elections*. (Article 52, my emphasis)

As per articles 8 and 52, the Local Councils are assembled via direct elections and all three cantons are free to elect individual representatives as well as representative bodies. The sole stipulation obligating the representatives and representative bodies of the three cantons is that, in the pursuit of their rights, they are not authorized to undertake actions that violate the provisions of the Rojava Charter.

### **3.3.4.3 Elections in Rojava**

The perpetuation of democratic process in Rojava is based on fixed time periods in which elections occur as well as mechanism to prevent electoral misconduct. The Rojava Charter states:

*The Legislative Assembly in the Autonomous Region is elected by the people by direct, secret ballot, and the duration of the course is four (4) years. (Article 45, my emphasis)*

The Legislative Assembly serves a term of four years. Every resident of Rojava who has reached the age of 18 years is eligible to cast their vote (article 49).

The Higher Commission of Elections is the sole body competent to receive allegations of electoral fraud, voter intimidation or illegal interference with the process of an election. (Article 76 / 4)

The Higher Commission of Elections is monitored by the Supreme Court and may be monitored by observers from the United Nations and civil society organizations. (Article 76 / 5)

The Rojava Charter establishes procedures that are designed to guarantee free and fair elections through detecting all electoral misconduct. The Higher Commission of Elections is tasked to receive any and all claims of “electoral fraud, voter intimidation or illegal interference with the process of an election”. The Higher Commission of Elections is overseen by the Supreme Court. The Rojava Charter also states that The Higher Commission of Elections “may be monitored by observers from the United Nations and civil society organizations”.

### 3.3.4.4 Freedom of expression and the Rojava Charter

The principle of freedom of expression is discussed in several parts of the Rojava Charter. The Rojava Charter states that “all may express themselves freely in public life”<sup>20</sup> (preamble of the Rojava Charter). Specific articles of the Rojava Charter clarify further how freedom of expression is guaranteed:

Everyone has the right to express their ethnic, cultural, linguistic and gender rights. (Article 23 a.)

*Everyone has the right to freedom of opinion and expression.* (Excerpt from article 24, my emphasis)

The Rojava Charter asserts that the freedom of association and expression of members of the Yazidi community is given distinct emphasis:

The Yazidi religion is a recognized religion and its adherents’ rights to freedom of association and expression is *explicitly protected*. (Excerpt from article 32 c., my emphasis)

Freedom of expression is perceived in the Rojava Charter as right that must be safeguarded on multiple domains, including science and academia:

Everyone has the right to *freely experience and contribute to academic, scientific, artistic and cultural expressions and creations*, through individual or joint practice, *to have access to, enjoy and disseminate their expressions and creations*. (Excerpt from article 35, my emphasis)

Thus, the Rojava Charter protects freedom of expression in academic, scientific and artistic and cultural life. Having access to, and being able to disseminate, all such creations is also regarded as a right in the Rojava Charter.

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<sup>20</sup> Excerpt from the preamble of the Rojava Charter: “Under the Charter, we, the people of the Autonomous Regions, unite in the spirit of reconciliation, pluralism and democratic participation so that *all may express themselves freely in public life*.” (my emphasis)

### **3.3.4.5 Freedom of the media and independence of associations**

The Rojava Charter contains the following articles clarifying rights regarding the autonomy of associations and seeking information from, and disseminating information through, any media:

Everyone has the right to [--] to hold opinions without interference and *to seek, receive and impart information and ideas through any media and regardless of frontiers*. (Article 24, my emphasis)

Everyone has the right to *freedom of association with others, including the right to establish and freely join any political party, association, trade union and/or civil assembly*. (Article 32a, my emphasis)

In exercising the right to freedom of association, *political, economic and cultural expression of all communities is protected*. This serves to protect the rich and diverse heritage of the peoples of the Autonomous Regions. (Article 32b, my emphasis)

Everyone has the freedom *to obtain, receive and circulate information and to communicate ideas, opinions and emotions, whether orally, in writing, in pictorial representations, or in any other way*. (Article 33, my emphasis)

Right to seek and obtain information in any way and the right to disseminate one's thoughts, artistic or political creations is guaranteed by the Rojava Charter. The right to set up cultural or political organizations, including political parties and trade unions, is also protected by the Rojava Charter.

### **3.3.4.6 The rights of residents of Rojava**

The rights of residents of Rojava are set out in the following two articles:

Everyone has the right to liberty of movement and freedom to choose his residence within the Autonomous Regions. (Article 43)

Every person who has reached the age of eighteen (18) years is eligible to vote. (Article 49)

Thus, everyone who has reached the age of 18 years has the right to vote and everyone, regardless of age, has the right to freedom of movement and a freedom to choose their residence. Articles 43 and 49 of the Rojava Charter amount to broad and accessible residential rights.



### 3.4 Political preferences of the Iraqi electorate

#### 3.4.1 Survey data

The first five questions use a Likert scale containing five options. From left to right, the first two options measure the degree of disagreement while the last two measure the level of agreement. The third option in the middle indicates a neutral stance. The sixth question uses a Likert scale containing only four options. The first two options indicate the degree of disagreement and the last two the degree of agreement. The option of choosing a neutral position has been removed.

“I will now read you a list of human rights that have been recognized by the international community. On a scale of 1 to 5 (1 being not important at all and 5 being very important) how important do you think it is that they be part of Iraq’s new constitution?” (International Republican Institute 2005, 15)

**Question 1.** No arbitrary arrest or detention:



(Ibid.)

**Question 2.** No torture or degrading punishment:



(Ibid.)

**Question 3.** Fair and Public Trials:



(Ibid.)

**Question 4.** No discrimination based on religion, race, sex, ethnicity:



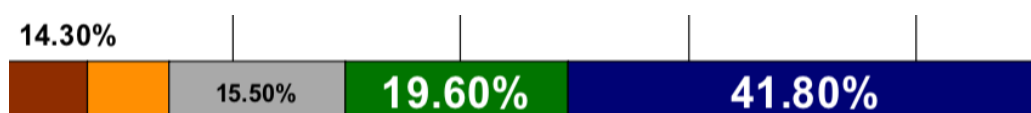
(International Republican Institute 2005, 16)

**Question 5.** Select or change government through peaceful, fair elections:



(Ibid.)

**Question 6.** Organize political, civic or labor organizations:



(Ibid.)

**Question 7.** [Do note the use of a different Likert scale than the one used in charts 1. – 5.] “[Do] you agree or disagree that [--] the following should be part of the constitution?” (International Republican Institute 2005, 50)

Basic human rights:



Likert scale: strongly disagree, disagree, agree, strongly agree.

**Question 8.** “[Do you believe the new constitution should allow] all Iraqi citizens to express their opinions on the political, social, and economic issues of the day?”

94% of Iraqis agree; 2% disagree. (The Gallup Poll: Public Opinion 2004, 178)

**Question 9.** “[Do you believe the new constitution should allow] all Iraqi citizens to assemble for any reason or in support of any cause?”

77% of Iraqis agreed; 12% disagreed. (Ibid.)

**Question 10.** “There can be differences between the way government is set up in a country, called the political system. From the three options I am going to read to you, which one do you think would be best for Iraq now?” (ABC News, BBC & NHK 2009, 11)

Strong leader: government headed by one man for life.	14%
Islamic state <sup>21</sup> : where politicians rule according to religious principles.	19%
Democracy: government with a chance for the leader to be replaced from time to time.	64%

**Question 12.** “There can be differences between the way government is set up in a country, called the political system. From the three options I am going to read to you, which one do you think would be best for Iraq now?” (ABC News, BBC & NHK 2009, 11) *Respondents of Sunni background:*

Strong leader: government headed by one man for life.	20%
Islamic state <sup>22</sup> : where politicians rule according to religious principles.	11%
Democracy: government with a chance for the leader to be replaced from time to time.	65%

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<sup>21</sup> Editor’s note: Not to be confused with the organization the Islamic State nor its political program.

<sup>22</sup> Editor’s note: Not to be confused with the organization the Islamic State nor its political program.

**Question 13.** The degree of support for religious freedom among Iraqi Muslims: 91%. (Pew Research Center 2013)

### 3.4.2 Suggestive evidence of Iraqi public opinion – Iraqi Constitution

A constitutional referendum was held in Iraq in 2005. Almost ten million Iraqis (a turnout of 63%) participated in the elections. 78.59 % of voters were in favor of, and 21.41 % against, the constitution. Thus, given that this very version of the constitution passed in a landslide, this thesis will view the articles of the constitution as anecdotal evidence, albeit not conclusive evidence, on the political preferences of the Iraqi citizenry.<sup>23</sup>

Key elements of the constitution include the following (my emphasis in italics):

Article 2:

First:

[--]

B. No law may be enacted that *contradicts the principles of democracy*.  
C. No law may be enacted that contradicts *the rights and basic freedoms stipulated in this Constitution*.

Second: This Constitution guarantees the Islamic identity of the majority of the Iraqi people and *guarantees the full religious rights to freedom of religious belief and practice of all individuals such as Christians, Yazidis, and Mandeans*.

Article 3: Iraq is a country of multiple nationalities, *religions, and sects*.

Article 14: Iraqis are *equal before the law* without discrimination based on *gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion*, or economic or social status.

Article 15: Every individual has *the right to enjoy life, security and liberty*. Deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority.

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<sup>23</sup> This writer does not deem it sensible to assume that all those who voted in favor of the constitution would by definition agree with every single one of its articles. However, the hypothesis that those who voted 'yes' found themselves more in an agreement than disagreement with the content of the constitution seems tenable. Concordantly, it is reasonable to assume that those who voted against the constitution found themselves more in disagreement than agreement with that version of the constitution. Hence, the content of the constitution will be viewed as suggestive evidence on the preferences of the 78.59 % of voters.

Article 37: First:

C. All forms of *psychological and physical torture and inhumane treatment* are prohibited.

Third: *Forced labor, slavery, slave trade, trafficking in women or children, and sex trade* shall be prohibited.

Article 38:

The State shall guarantee in a way that does not violate public order and morality:

A. *Freedom of expression* using all means.

B. *Freedom of press, printing, advertisement, media and publication.*

C. *Freedom of assembly* and peaceful demonstration, and this shall be regulated by law.

Article 39:

Second: It is *not permissible to force any person to join any party, society, or political entity*, or force him to continue his membership in it.

Article 41:

Iraqis are free in their commitment to their personal status according to *their religions, sects, beliefs, or choices*, and this shall be regulated by law.

Article 42:

Each individual shall have the *freedom of thought, conscience, and belief*.

### **3.4.3 Summary of pertinent Iraqi public opinion trends**

Citing authoritative polling data compiled by independent polling organizations, I will review political preferences of the Iraqi citizenry. The following marks the percent of Iraqis who were in favor of including the listed human rights in the constitution:

- no arbitrary arrest or detention: 87.70%, including 65.70% who viewed it as ‘very important’
- no torture or degrading punishment: 90.70%, including 67.80% who viewed it as ‘very important’
- fair and public trials: 91.70%, including 70.0% who viewed it as ‘very important’
- selecting or changing government through peaceful and fair elections: 88.1%, including 69.10% who viewed it as ‘very important’
- no discrimination based on religion, race, sex and ethnicity: 88.10%, including 69.10% who viewed it as ‘very important’

- select or change government through peaceful, fair elections: 90%, including 71.40% who viewed it as ‘very important.

When asked whether ‘basic human rights’ should be included in the constitution, 90.80% of Iraqis answered in the affirmative, including 67.80% who ‘strongly agreed’ that ‘basic human rights’ should be included. Furthermore, 77% of Iraqis supported freedom of assembly and 91% of Iraqi Muslims supported religious freedom. Out of three options – strong leader, an Islamic state and democracy – 64% favored democracy.

In 2005, Iraqis voted on whether to endorse or reject a proposed constitution. Approximately four out of five Iraqis who voted lent their support to that version of the constitution. The content of the constitution includes the following segments: “no law may be enacted that contradicts the principles of democracy” (Article 2); “full religious rights to freedom of religious belief and practice of all individuals such as Christians, Yazidis, and Mandeans” (Ibid.); “Freedom of expression using all means [--] Freedom of press, printing, advertisement, media and publication [--] Freedom of assembly and peaceful demonstration, and this shall be regulated by law” (Article 38); freedom of thought, conscience, and belief (Article 42)

## 4. Empirical analysis: part 2

### 4.1 Juxtaposing Dahl's democratic criteria with Rojava Charter

Chapter 2.1.3 presented Robert Dahl's six criteria for a democratic process and Chapter 3.3 studied the content of the Rojava Charter. For Dahl, the six conditions that together constitute a democratic society are: elected officials; free, fair and frequent elections; freedom of expression; access to alternative sources of information; associational autonomy; inclusive citizenship. This chapter investigates the compatibility of the Rojava Charter with the six criteria by Dahl.

Chart 1: Dahl's six conditions for a democracy juxtaposed with the Rojava Charter.

Dahl's democratic institutions	Rojava Charter	Compatibility
Criterion 1: <i>Elected officials</i> . Control over government decisions about policy is constitutionally vested in officials elected by citizens.	Article 2 a: "Authority resides with and emanates from the people of the Autonomous Regions. It is exercised by governing councils and public institutions elected by popular vote."  From article 8: "Cantons may freely elect their representatives and representative bodies, and may pursue their rights insofar as it does not contravene the articles of the Charter."  Article 52: "Local Councils in each province of the Autonomous Regional shall be formed through direct elections."	In Rojava Charter, governance is organized through councils whose members are elected in direct popular vote.  Dahl's first criterion and pertinent articles in the Rojava Charter are compatible.
Criterion 2: <i>Free, fair and frequent elections</i> . Elected officials are chosen in frequent	Article 45: "The Legislative Assembly in the Autonomous Region is elected by the	Rojava Charter stipulates that the UN and civil associations are allowed to monitor the

and fairly conducted elections in which coercion is comparatively uncommon.	<p>people by direct, secret ballot, and the duration of the course is four (4) years.”</p> <p>Article 76 / 4: “The Higher Commission of Elections is the sole body competent to receive allegations of electoral fraud, voter intimidation or illegal interference with the process of an election.”</p> <p>Article 76 / 5: “5. The Higher Commission of Elections is monitored by the Supreme Court and may be monitored by observers from the United Nations and civil society organizations.”</p>	<p>Higher Commission of Elections. Rojava Charter also establishes that the mandate of the Higher Commission of Elections includes handling potential accusations of electoral misconduct. Dahl’s term “frequent” is open to interpretation. The Legislative Assembly in the Autonomous Region is elected in every four years, a conventional duration of a legislative term by international standards.</p> <p>Dahl’s second criterion and the Rojava Charter are compatible.</p>
<p>Criterion 3: <i>Freedom of expression</i>. Citizens have a right to express themselves without danger of severe punishment on political matters broadly defined, including criticism of officials, the government, the regime, the socioeconomic order, and the prevailing ideology.</p>	<p>Excerpt from preambular paragraphs: “all may express themselves freely in public life”</p> <p>Article 23a: “Everyone has the right to express their ethnic, cultural, linguistic and gender rights”</p> <p>Excerpt from article 24: “Everyone has the right to freedom of opinion and expression”</p> <p>Excerpt from article 32c: “The Yazidi religion is a recognized religion and its adherents’ rights to freedom of association and expression is explicitly protected.”</p> <p>Excerpt from article 35: “Everyone has the right to</p>	<p>Rojava Charter guarantees the negative right of freedom of expression in the Charter’s preamble and in multiple articles. In the Rojava Charter, freedom of expression encompasses the right to express opinions; the right to express one’s ethnicity, culture, language and gender; the right to participate collectively or individually in endeavors relating to academia, science, art and culture and the right to disseminate one’s opinions and creations.</p> <p>Dahl’s third criterion and the Rojava Charter are compatible.</p>



	freely experience and contribute to academic, scientific, artistic and cultural expressions and creations, through individual or joint practice, to have access to and enjoy, and to disseminate their expressions and creations.”	
<p>Criterion 4: <i>Access to alternative sources of information.</i> Citizens have a right to seek out alternative and independent sources of information from other citizens, experts, newspapers, magazines, books, telecommunications, and the like. Moreover, alternative sources of information actually exist that are not under the control of the government or any other single political group attempting to influence public political beliefs and attitudes, and these alternative sources are effectively protected by law.</p>	<p>Article 24: “Everyone has the right to freedom of opinion and expression; including freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”</p> <p>Article 33: “Everyone has the freedom to obtain, receive and circulate information and to communicate ideas, opinions and emotions, whether orally, in writing, in pictorial representations, or in any other way.”</p>	<p>Provisions of the Rojava Charter safeguard the right to search for, obtain and disseminate information and viewpoints through any media, domestically and internationally. All modes of communicating ideas, opinions and emotions are permissible, including oral, written and pictorial means.</p> <p>Dahl’s fourth criterion is compatible with the Rojava Charter.</p>
<p>Criterion 5: <i>Associational autonomy.</i> To achieve their various rights, including those required for the effective operation of democratic political institutions, citizens also have a right to form relatively independent associations or organizations, including independent political parties and interest groups.</p>	<p>Article 32a: “Everyone has the right to freedom of association with others, including the right to establish and freely join any political party, association, trade union and/or civil assembly.”</p> <p>Article 32b: “In exercising the right to freedom of association, political, economic and cultural expression of all communities is protected. This serves to protect the rich and diverse</p>	<p>Associational autonomy is guaranteed in article 32 of the Rojava Charter. As defined in the Charter, freedom of association encompasses the right to set up and join political organizations, including political parties and trade unions, and individual and communal rights of cultural expression. The freedom of association of the Yazidi community is emphasized in article 32c.</p>

	<p>heritage of the peoples of the Autonomous Regions.”</p> <p>Article 32c: “The Yazidi religion is a recognized religion and its adherents’ rights to freedom of association and expression is explicitly protected.”</p>	<p>Dahl’s fifth criterion and the Rojava Charter are compatible.</p>
<p>Criterion 6: <i>Inclusive citizenship</i>. No adult permanently residing in the country and subject to its laws can be denied the rights that are available to others and are necessary to the five political institutions just listed. These include the rights to vote in the election of officials in free and fair elections; to run for elective office; to free expression; to form and participate in independent political organizations to have access to independent sources of information; and rights to other liberties and opportunities that may be necessary to the effective operation of the political institutions of large-scale democracy.</p>	<p>Article 43: “Everyone has the right to liberty of movement and freedom to choose his residence within the Autonomous Regions.”</p> <p>Article 49: “Every person who has reached the age of eighteen (18) years is eligible to vote.”</p>	<p>The Rojava Charter does not contain detailed provisions on citizenship. The wordings of article 43 (“everyone”) and article 49 (“every person”) indicate that Dahl’s notion of inclusive citizenship is partly or fully enforced in the Autonomous Regions: if <i>everyone</i> is entitled to freedom of movement and <i>every person</i> who is 18 years old or older has the right to vote, that would suggest that Dahl’s criterion regarding inclusive citizenship is met.</p> <p>Furthermore, no provision of the Rojava Charter contradicts Dahl’s sixth criteria. Based on what is explicitly stated in the Rojava Charter, however, it is not possible to establish with definite certainty whether the Charter’s provisions are in accordance with the notion of inclusive citizenship.</p> <p>Compatibility between Dahl’s sixth criterion and the Rojava Charter cannot be determined conclusively.</p>

## **4.2 The Rojava system from the perspective of human rights**

This chapter analyzes the political philosophy of Abdullah Öcalan, the figurehead of the powerful Kurdistan Workers' Party, and the Rojava Charter, a social contract that is being enforced in the Democratic Federation of Northern Syria, through the lens of human rights, democracy and social contract theory. Öcalan's writings on a non-nationalistic political order, based on decentralized grassroots democracy, have played a pivotal role in the emergence of the societal blueprint currently implemented in the Democratic Federation of Northern Syria.

The ethos of democratic confederalism seeks to produce a political system that, in the words of Öcalan, is "open towards other political groups and factions", "flexible, multi-cultural and consensus-oriented" and in which "ecology and feminism" are key principles. (Öcalan 2017, 70-1) The overarching themes in Öcalan's theorizing are anti-nationalism, decentralization and non-discrimination.

Notwithstanding the somewhat abstract and at times ambiguous reasoning by Öcalan, the Rojava Charter, a practical application of many of his tenets, portrays a detailed vision for a stateless political order. Avoiding platitudes and vague generalities, the Rojava Charter endorses specific rights, such as the right to freedom of thought and expression, the right to establish and join any political party and the rights of women to participate in all facets of political, social and economic life.

Rojava Charter incorporates the right of peoples to self-determination. Article 20 of the charter emphasizes Rojava Charter's commitment to "international human rights treaties, conventions and declarations" and recognizes them as "inviolable". The charter specifies that is committed to "the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, as well as other internationally recognized human rights conventions." (Article 21) The very preamble of the charter highlights its commitment to protect "fundamental human rights and liberties". (Preamble of the Rojava Charter)

Hence, the provisional constitution of Rojava formally pledges to adhere to modern human rights instruments. The charter specifies the exact treaties it incorporates, adding the phrase "as well as other internationally recognized human rights conventions" (Article 21) to further increase its official commitment to modern human rights standards.

### **4.3 Rojava model and social contract theory**

Prominent political theorists of the Enlightenment, such as Kant, Hobbes and Rousseau, contemplated a pact in which free individuals would willingly and knowingly form a power structure to unshackle themselves from the state of nature. In the social contract discourse, the state of nature was understood as an underdeveloped, amoral and uncultivated human condition. Hobbes, for example, argued that in a state of nature the individual is solely concerned for survival and advancing self-interest. In the state of nature, conventional moral standards of an organized society do not exist and some social contract theorists, including Hobbes, argued that the state of nature is an amoral state. In Hobbes' view, in the state of nature there is "no knowledge of the face of the earth, no account of time, no arts, no letters, no society, and which is worst of all, continual fear and danger of violent death". (Hobbes 1651, in Rosen & Wolff 1999, 13.)

Social contract theorists of the Enlightenment reflected that natural rights would be broad or infinite within the state of nature. However, they had divergent views on how individuals would act when extensive or maximum natural rights prevailed. Hobbes argued that infinite natural rights combined with the lack of organized power structure would inevitably bring about a situation in which individuals would not act kindly towards one another. Rather, relations among individuals would be marked by aggression and animosity and people would cause physical harm to one another. In *Leviathan*, Hobbes famously asserted that in the state of nature "there can be no security to any man". (Hobbes 1651, in Wootton 2008, 172.) Rousseau's speculation on the state of nature put forth a different proposition on how humans would act in such a state. Contrary to what Hobbes envisioned, Rousseau contended that humans would show compassion and would still have the capacity to feel pity for one another.

One may detect similarities with the Enlightenment philosophers' theorization on the state of nature, on the one hand, and a large-scale war in which the power structure of the state weakens or disintegrates altogether, causing the emergence of a power vacuum. If one is to regard the war in Syria as an allegory to the state of nature, one would find justifications for both the interpretation of Hobbes and that of Rousseau on what would occur in such a state. The scale of death and devastation in Syria would appear to provide support the notion that, when basic societal structures and the authority of the state dissolve, it might lead to precarious situation in which "there can be no security to any man" (Ibid.) Such an observation would suggest that the gloomy estimation by Hobbes on the perils of the state of nature were not unfounded. Concurrently, it is also true that the erosion of a

social contract – if, for the sake of argument, one would accept the idea that there existed a social contract in the pre-war Syria – may also create opportunities for compassion and empathy, as the trajectory in Rojava would suggest. Such an observation would indicate that Rousseau’s reflection on the human condition within the state of nature was reasonable.

To liberate the human individual and the human collective from the primitive and amoral yoke of the state of nature, a political agreement is needed. The Enlightenment philosophers perceived that a social pact that would be agreed on by free individuals would establish a power structure. For Hobbes, such a contract would protect its subjects both from each other within the power structure as well as threats from outside the power structure. The figurative notion of a social contract served as an allegory of state (see Chapter 2.3).

The official name of the Rojava Charter is *Charter of the Social Contract*, a direct reference to the philosophical notion of the social contract. The preambular paragraphs of the Rojava Charter contain wordings that bring to the fore the discourse of a social contract. The preamble of the charter asserts that the people of the three cantons “[--] freely and solemnly declare and establish this Charter”; that the Rojava Charter “proclaims a new social contract”; that the people of Rojava “unite in the spirit of reconciliation, pluralism and democratic participation”; and that the people of the Democratic Federation of Northern Syria “declare a political system and civil administration founded upon a social contract that reconciles the rich mosaic of Syria through a transitional phase from dictatorship, civil war and destruction, to a new democratic society where civic life and social justice are preserved”. (Rojava Charter 2014, preambular paragraphs)

Such language closely resembles the starting-point of several social contract theorists of the Enlightenment era, including that highlighted by Kant. Kant envisioned a social contract in which “every legislator [would] frame his laws in such a way that they could have been produced by the united will of a whole nation”. (Kant 1793, in Rosen & Wolff 1999, 64–5) Kant contemplated how lawmakers could “regard each subject [--] as if he had consented with the general will.” (Ibid.) One may find clear references in Kant’s line of reasoning to what came to be called a *Rechtsstaat*, a state of law, in which citizens are equal before the law. If laws were drafted in such a manner that they could have been created by the will of an entire nation, and if lawmakers, while drafting laws, sought to view each subject as if they had agreed with the general will, then one may assume that laws would indeed be more aligned with the interests of each individual.

Rousseau's theorizing on the general will resembles that of Kant. Rousseau placed the triumph of the general will in the understanding that a man shows the same solicitude for others as he shows for himself and that he might even show solicitude for others precisely because he shows solicitude for himself. Thus, Rousseau contended that "we cannot work for others without working for ourselves" and that "there is not a man who does not think of "each" as meaning him, and consider himself in voting for all". (Rousseau 1762, 19)

Rousseau's formulation that the united will must originate from all and apply to all and Kant's ideal that lawmakers should draft laws as if they were produced by the will of an entire nation resonate strongly with Öcalan's theorizing and the Rojava Charter. The social contract envisioned by Öcalan, as well as the social contract established in the Rojava Charter, strive towards an ethnically and politically diverse, *inclusive* society.

The tenet of 'the general will', a key concept contemplated by the most prominent figures of the Enlightenment theorizing on the social contract, manifests itself in the principle of inclusivity as defined by Öcalan and the Rojava Charter. Öcalan writes about a grass-roots level democracy in which decision-making power is allocated to communities. In Öcalan's model of democratic confederalism the higher levels of political representation "serve [--] the implementation of *the will* of the communities". (Öcalan 2017, 78, my emphasis) Whether an intentional reference to the concept of 'the general will' or not, Öcalan's reasoning behind the phrase "the will of the communities" denote a similar meaning: the realization of the political will of the collective, not just the political will of the few, is the idealized goal of Öcalan's model. Similarly, when Öcalan calls for more extensive participation by individuals and communities in the political process, his reasoning bears a resemblance to the theorizing by Kant and Rousseau. For Öcalan, it is a priority to establish a decision-making level where all social, political, religious communities may voice their concerns and push for their interests as freely as possible: "The creation of an operational level where all kinds of social and political groups, religious communities, or intellectual tendencies can express themselves directly in all local decision-making processes can also be called participative democracy" and that the stronger the engagement by such communities "the more powerful is this kind of democracy." (Öcalan 2017, 26-7)

The Rojava Charter echoes Locke's popular sovereignty concept. Locke contented that individuals who agreed to form a social pact by definition had consented to the idea of majority rule. For Locke, the mere fact that a person willfully enters a social contract means that the individual is ready to

submit himself to the will of the majority. Even if that individual would find a specific decision distasteful, that person nonetheless should uphold the principle of majority rule. The Rojava Charter explicitly states that the source of legitimacy of the contract is the people of the Rojava region. However, the Rojava Charter also highlights that, even though it grants broad freedoms and officially establishes a form of decentralized democracy, the Charter does not give a *cart blanche* to act in any way a person might see fit. Quite the contrary, the charter makes it clear that its provisions, including all international human rights treaties, constitute a set of principles that no canton nor any individual is allowed to breach. The role of this crucial clarification in the Rojava Charter resembles that of majority rule as theorized by Locke in so far as the principles of the Rojava Charter and the rule of the majority for Locke both enjoy a status that no one is allowed to supersede.

When one considers the core ideas by Kant and Rousseau on the significance of the general will in their overall theorizing on the social contract, Öcalan's model may be viewed as a modern application of what Kant and Rousseau were speculating about. In a diverse region such as Rojava, how could the general will of all those residing in Rojava be realized if not through a grass-roots structure that safeguards freedom of expression of, as well as large-scale participation by, each and every individual and community? The similarities may be mostly intentional or mostly accidental between Öcalan's rather abstract theorizing and a more detailed and precise provisional constitution in Rojava Charter, on the one hand, and the Enlightenment era philosophers hypothesizing about the general will, on the other. Be that as it may, the core reasoning behind Kant's and Rousseau's highlighting of the general will is grounded on similar arguments as what Öcalan offers in his political model.

Rousseau envisioned a monumental change in the human condition if this transition from the state of nature to forming a society were to occur. In the *Social Contract*, Rousseau asserts that "[t]he passage from the state of nature to the civil state produces a very remarkable change in man, by substituting justice for instinct in his conduct, and giving his actions the morality they had formerly lacked." (Rousseau 1762, in Rosen & Wolff 1999, 13) Similar connotations may be detected in the preambular paragraphs of the Rojava Charter. The charter asserts that "[i]n pursuit of freedom, justice, dignity and democracy and led by principles of equality and environmental sustainability, the Charter proclaims a new social contract, based upon mutual and peaceful coexistence and understanding between all strands of society." (Rojava Charter, excerpts from preambular paragraphs) Concordantly, the preamble states that "we declare a political system and civil administration founded upon a social contract that reconciles the rich mosaic of Syria through a transitional phase from dictatorship, civil war and destruction, to a new democratic society". (Ibid.) Rousseau's ethos on the

pre-eminent change in man in which instinct is replaced by justice resonates with the Rojava Charter's call for pursuing liberty and dignity by replacing war and destruction with a social contract based on democracy.

#### **4.4 The IS model through the lens of human rights doctrine, democracy**

This chapter analyzes the societal model envisioned and implemented by the IS through the lens of democracy and modern human rights doctrine. The fundamental principles of the IS organization were treated in 3.1, human rights in Chapter 2.2 and democracy in Chapter 2.1. What is presently understood by the concept of human rights and a democratic form of governance are both a result of several thousand years of philosophical and historical evolution. Both institutions are part of a civilizational continuum that began, at the very latest, from the Code of Hammurabi (dating back to 1754 BCE) of Ancient Mesopotamia, arguably the first detailed codification of people's rights in history, to 'dēmokratía' of Ancient Athens established approximately 2,500 years ago. The definitions of both concepts have varied greatly and both have evolved in significant respects even as recently as in the 20<sup>th</sup> century (see Chapters 2.1 and 2.2).

The broad consensus in the 21<sup>st</sup> century on the meaning of democracy entails, at the bare minimum, free and fair election in which an inclusive citizenry appoints representatives (Dahl 1998 & Diamond 2004), the rule of law that applies equally to all citizens (Diamond 2004), associational autonomy (Dahl 1998) and participation by the citizens in political life (Diamond 2004). In their present meaning, modern human rights denote a set of rights that are regarded as inherent to every human being. Human rights provisions are elucidated primarily in the International Bill of Human Rights that is comprised of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Together the three instruments form the foundation of modern human rights legislation which yields considerable legal and political influence both domestically and internationally.

The IS draws from a tradition that is disinterested in and repudiates the theory of human rights and democracy. Formally, the IS is a dynasty in which an Islamic steward, or caliph, exercises supreme authority. In practice, the societal system created by the organization is one of theocracy, religious law and totalitarianism. The political philosophy behind the model discards the principle of people power, or democracy, and laws that are drafted expressly by people. The position of the IS towards the concept of democracy and man-made laws is not a recent invention. The architect of political



Salafi-Jihadism in Iraq post US-led invasion, Abu Musab al-Zarqawi, founded and headed the organizational predecessor of the IS, Al-Qaeda in Mesopotamia. In 2005, in his campaigning against the constitutional referendum, al-Zarqawi explained the group's viewpoint: "The legislator who must be obeyed in a democracy is a man, and not God" and that such a setup "is the very essence of heresy and polytheism and error *as it contradicts the basis of faith and monotheism.*" (Al-Zarqawi 2005, in Bohlen 2015, my emphasis)

Similar sentiment was expressed nine years later by al-Zarqawi's successor, the Caliph of the IS, Abu Bakr al-Baghdadi. Al-Baghdadi denounced "the disbelievers" for "spreading dazzling and deceptive slogans such as: civilization, peace, co-existence, freedom, democracy, secularism, baathism, nationalism, and patriotism". (Al-Baghdadi 2014) Illustrating the gap between the ethos and practice of political Salafi-Jihadism, on the one hand, and the doctrines of democracy and modern human rights, on the other, consider the list of "dazzling and deceptive slogans" that al-Baghdadi accuses "the disbelievers" for spreading. Besides the rather apparent items on the list, such as "freedom, democracy" and "secularism", one may also take note of the less obvious items: "civilization, peace, co-existence, [--] baathism, nationalism, and patriotism", all of which are outright rejected by the self-declared global Caliphate.

Given that the societal program of the IS group has its roots in an ultraconservative interpretation of religious law and that the political system is formally an Islamic dynasty, it is not entirely surprising that "civilization", "co-existence", "baathism, nationalism, and patriotism" are all alien to the group's disposition. The concepts do indeed contain modern, even secular connotations. Such connotations are seen by the group as not accommodating, or even deviating from, the pillars of an ideal society: pious adherence to sharia and unity under the umbrella of Sunni Islam. Ultimately, all of the previous "deceptive slogans" are overshadowed by the esprit de corps among the exclusively Sunni Muslim members of the IS theocratic enterprise. As portrayed by al-Baghdadi:

Allah brought their hearts together, and thus, they became brothers by His grace, loving each other for the sake of Allah, standing in a single trench, defending and guarding each other, and sacrificing themselves for one another. Their blood mixed and became one, under a single flag and goal, in one pavilion, enjoying this blessing, the blessing of faithful brotherhood. (Al-Baghdadi 2014)

Al-Baghdadi's discourse, albeit extravagant and bellicose, should not be misconceived as nonsensical: as per the tenets of the political Salafi-Jihadism, the IS model is a system of

institutionalized Sunni supremacy under the total control of the Caliph. Hence, Al-Baghdadi's discourse on Sunni Muslim unity "under a single flag and goal" is not hyperbole but rather the very essence of the IS enterprise.

As demonstrated in Chapters 3.1.3 and 3.1.4, the IS leadership portrays the Sunni Muslim population as being a target of continuous marginalization. In the place of this perceived predicament in which Sunni Muslims are victims of continued aggression, the IS proclaims it will erect a system in which "the Muslim alone remains the master of the state and decision-making and no one is in conflict with him" (Islamic State 2014). The IS also vows to "protect the power of the Sunnis" (Ibid.).

As contemplated in the empirical material by the IS investigated in Chapter 3.1, the group's depiction of the prevailing power dynamics in the Middle East plays a crucial role in fomenting the sense of dire Sunni victimhood to which the IS claims to have the ultimate solution: a system of perpetual and expansive Sunni supremacy. Specific political and legal institutions that discriminate against non-Sunni Muslims have been employed by the IS. The Christian communities within the IS are being targeted with discriminatory *Dhimmi* pact and *jizya* practices.

The IS has employed genocide as a key tactic in advancing the demographic and ideological aims of the organization. The investigation conducted by this writer in Iraqi Kurdistan corroborates that, when assessed within the framework of the definition of genocide in the Rome Statute, the IS is committing against the Yazidis all five subcategories (a, b, c, d and e) of genocide that together comprise the entirety of the crime of genocide.

Both the ideological goal and the tangible result of the set of practices imposed by the IS in the territories in which it is the sovereign authority amount to a model which structurally privileges the Sunni Muslim population and discriminates against all other groups. The advantaged Sunni Muslim population is not intended to be of any single ethnicity but is comprised of Sunnis from diverse ethnic backgrounds ("a state where the Arab and non-Arab, the white man and black man, the easterner and westerner are all brothers" [Al-Baghdadi 2014]).

## 4.5 Juxtaposing Diamond's democracy criteria with the IS model

Chapter 2.1.3 reviewed the four criteria of a democratic process put forward by scholar Larry Diamond. Diamond's four conditions for democracy are the following: a political system for choosing and replacing the government through free and fair elections; the active participation of the people, as citizens, in politics and civic life; protection of the human rights of all citizens; a rule of law, in which the laws and procedures apply equally to all citizens. Chapter 3.1 examined the philosophical bedrock of the societal model of the IS and Chapter 3.4 chronicled the political preferences of the Iraqi general public. This chapter analyzes the compatibility of Diamond's four conditions of a democracy with the IS model and the public opinion in Iraq.

Chart 2: Diamond's four criteria of a democracy juxtaposed with the IS model.

Diamond's democratic institutions	Political model of the IS	Compatibility
1. A political system for choosing and replacing the government through free and fair elections	<p>[B]y Allah's grace – you [Muslims] have a state and <i>khilāfah</i>, which will return your dignity, might, rights, and leadership. (Al-Baghdadi 2014, my emphasis)</p> <p>“[The disbelievers] accomplished this by attacking and occupying [Muslim] lands, placing their treacherous agents in power to rule the Muslims with an iron fist, and spreading dazzling and deceptive slogans such as: civilization, peace, co-existence, <i>freedom</i>, <i>democracy</i>, <i>secularism</i>, <i>baathism</i>, <i>nationalism</i>, and <i>patriotism</i>, among other false slogans.” (Al-Baghdadi 2014, my emphasis)</p>	<p>The IS calls its political system a dynasty ruled by an Islamic steward, or caliph. The caliph of the IS, Abu Bakr al-Baghdadi describes “democracy” and “secularism” as “dazzling and deceptive slogans” and “false slogans”. The organization states that “implanting Islamic values” and “sound, sharia-based societal manners and customs”, structuring the society “on the basis of [--] sharia” are “among the aims of the Islamic programme in the Islamic State”. The group states that its leadership is forbidden to adopt any decisions that violate “Shari’a politics”.</p> <p>Diamond's first criterion and the IS model are incompatible.</p>

	<p>“[A]mong the aims of the Islamic programme in the Islamic State:</p> <p>1. Implanting <i>Islamic values</i> in society as well as sound, <i>sharia-based societal manners and customs</i>.</p> <p>[...]</p> <p>3. Developing Islamic society <i>on the basis of</i> [--] <i>sharia</i>.</p> <p>[...]</p> <p>According to the <i>sharia</i> politics, the leadership is <i>not allowed to adopt decisions</i> to ally with a state or implement an agreement with it <i>if that violates Shari'a politics</i>.”</p> <p>(Islamic State 2014, my emphasis)</p>	
2. The active participation of the people, as citizens, in politics and civic life.	<p>“[The disbelievers] accomplished this by attacking and occupying [Muslim] lands, placing their treacherous agents in power to rule the Muslims with an iron fist, and spreading dazzling and deceptive slogans such as: civilization, peace, <i>co-existence, freedom, democracy, secularism, baathism, nationalism, and patriotism, among other false slogans</i>.” (Al-Baghdadi 2014, my emphasis)</p> <p>“[The Caliphate] is a state <i>where the Arab and non-Arab, the white man and black man, the easterner and westerner</i> are all brothers. It is a <i>khilāfah</i> that gathered <i>the Caucasian, Indian, Chinese, Shāmī, Iraqi, Yemeni, Egyptian, Maghribī</i></p>	<p>The IS autocrat Abu Bakr al-Baghdadi describes “co-existence, freedom, democracy” and “secularism” as “dazzling and deceptive slogans” and “false slogans”. The primary form of “active participation” within the IS model is global immigration to the IS by willing Salafi-Jihadist Sunni Muslims: “[The Caliphate] is a state <i>where the Arab and non-Arab, the white man and black man, the easterner and westerner</i> are all brothers. It is a <i>khilāfah</i> that gathered <i>the Caucasian, Indian, Chinese, Shāmī, Iraqi, Yemeni, Egyptian, Maghribī (North African), American, French, German, and Australian</i>. [--] Their blood mixed and became one, under a single flag and goal, in one</p>

	<p>(<i>North African</i>), <i>American</i>, <i>French</i>, <i>German</i>, and <i>Australian</i>. [--] Their blood mixed and became one, under a single flag and goal, in one pavilion, enjoying this blessing, the blessing of faithful brotherhood. (Al-Baghdadi 2014, my emphasis)</p>	<p>pavilion, enjoying this blessing, the blessing of faithful brotherhood. (Al-Baghdadi 2014, my emphasis).</p> <p>The primary source material published by or leaked from the IS leadership does not include references to “active participation” of individuals to political affairs.</p> <p>Diamond’s second criterion and the IS model are incompatible.</p>
<p>3. Protection of the human rights of all citizens.</p>	<p>“[God commands that we] establish Islamic governance and [--] <i>release the people from the shackles of rotten positive laws.</i>” (Islamic State 2016, my emphasis)</p> <p>In Aleppo, IS put up signs in its courts stating “[n]o dogs or lawyers allowed.” (Islamic State 2016, in Revkin 2016, 12)</p> <p>“And today it is <i>necessary to have a studied plan</i> that responds in kind and brings about like change in the profane abode of disbelief, expelling its people and <i>killing its people until there is no base for them</i> and the land is for God and his servants.” (Islamic State 2014, my emphasis)</p> <p>“[The disbelievers] accomplished this by attacking and occupying [Muslim] lands, placing their</p>	<p>The IS has announced its intention to “release the people from the shackles of rotten positive laws”. Positive law, or man-made law, encompasses the entire body of human rights law. The IS has also announced that “dogs or lawyers” are not allowed in its courts. The organization has stated an express intent to carry out genocide: [T]oday it is necessary to have a studied plan that responds in kind and brings about like change in the profane abode of disbelief, expelling its people and <i>killing its people until there is no base for them</i> and the land is for God and his servants. (IS 2014, my emphasis) The caliph of the IS regards “civilization, peace, co-existence, freedom, democracy” and “secularism” as “dazzling and deceptive slogans”, amounting to a de facto rejection of human rights</p>

	<p>treacherous agents in power to rule the Muslims with an iron fist, and spreading dazzling and deceptive slogans such as: civilization, peace, <i>co-existence, freedom, democracy, secularism, baathism, nationalism, and patriotism</i>, among other <i>false slogans</i>.” (Al-Baghdadi 2014, my emphasis)</p>	<p>for human rights require, at the bare minimum, a political system that guarantees certain elementary freedoms and enforces some democratic mechanisms.</p> <p>Diamond’s third criterion and the IS model are incompatible.</p>
<p>4. A rule of law, in which the laws and procedures apply equally to all citizens.</p>	<p>“[A]mong the aims of the Islamic programme in the Islamic State:</p> <p>1. Implanting Islamic values in society as well as sound, <i>sharia-based societal manners and customs</i>. [...]</p> <p>3. Developing Islamic society on the basis of [--] <i>sharia</i>. [...]</p> <p>According to the <i>sharia</i> politics, the leadership is not allowed to adopt decisions to ally with a state or implement an agreement with it <i>if that violates Shari’a politics</i>” (Islamic State 2014, my emphasis)</p> <p>“[God commands that we] establish Islamic governance and [--] <i>release the people from the shackles of rotten positive laws</i>.” [In Aleppo, IS reportedly put up signs in its courts stating] “[n]o dogs or lawyers allowed.” (Islamic State 2016, in Revkin 2016, 12)</p>	<p>The IS calls for religious values, societal manners and customs (“Islamic values [--] as well as sound, sharia-based societal manners and customs”), developing the society in accordance with religious law (“on the basis of [--] sharia”) and forbids any and all decisions that deviate from religious norms (“the leadership is not allowed to adopt decisions to ally with a state or implement an agreement with it <i>if that violates Shari’a politics</i>” [Islamic State 2014, my emphasis]). The IS has expressed its intention to “release the people from the shackles of rotten positive laws”. Diamond’s three previous criteria portray a democratic society that protects human rights. The fourth criterion – rule of law – must then by definition refer to an inclusive and secular legislation, not a legal system that is based exclusively on religious law. Thus, taking into account Diamond’s first</p>

	<p>“And that was what the companions [of the Prophet Muhammad] and after them the caliphs pursued <i>against every heretic community</i>: that is, <i>dispersing</i> their groupings so there no longer remained any impeding opinion, strength or ability, and <i>the Muslim alone</i> remains the master of the state and decision-making and no one is in conflict with him.” (Islamic State 2015, my emphasis)</p> <p>And today it is <i>necessary to have a studied plan</i> that responds in kind and brings about like change in the profane abode of disbelief, expelling its people and <i>killing its people until there is no base for them</i> and the land is for God and his servants. (Islamic State 2014)</p> <p>Discrimination against Christians: <i>dhimmi</i> pact and <i>jizya</i> (Chapter 3.1.5)</p>	<p>three criteria, the rejection of positive law by the IS amounts to a de facto repudiation of the rule of law as the principle is suggested here by Diamond.</p> <p>The rule of law within the IS denotes de jure the rule of religious Islamic law. The rule of Islamic law entails discrimination against all non-Muslims. In the context of a democratic and inclusive rule of law, as the principle is suggested by Diamond, the rule of law requires equality before the law. However, the rule of strictly religious law excludes or discriminates against all members of the society who do not adhere to that religion.</p> <p>The practices of <i>dhimmi</i> pact and <i>jizya</i> as well as the expressed intent to “expel” or “kill” non-Sunni Muslims violate the principle of equality before the law, a cornerstone of Diamond’s criterion of the rule law.</p> <p>Diamond’s fourth criterion and the IS model are incompatible.</p>
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#### 4.6 Juxtaposing Diamond's four criteria of a democracy with Iraqi public opinion

To examine the level of correspondence between a Salafi-Jihadist theocratic societal system, such as the IS model, with the political preferences of the Iraqi general public this chapter will first determine the extent to which Diamond's four criteria correlate with Iraqi public opinion. If Diamond's criteria and Iraqi public opinion resemble one another, then it follows that the Iraqi public opinion is fundamentally not receptive to the ethos of theocratic Islamist governance. Accordingly, if Diamond's criteria are dissimilar to the views of Iraqis, then one may conclude that the Iraqi general public, first and foremost the Iraqi Sunnis, would not reject theocratic rule on democratic grounds.

Chart 3: Diamond's four criteria of a democracy juxtaposed with Iraqi public opinion.

<b>Diamond's democratic institutions</b>	<b>Iraqi public opinion</b>	<b>Compatibility</b>
1. A political system for choosing and replacing the government through free and fair elections	88.1% of Iraqis view it as 'important' or 'very important' that the procedure of "selecting or changing government through peaceful and fair elections" be included in the Iraqi constitution. (International Republican Institute 2005, 16)  Out of the 88.10%, 69.10% view it as 'very important' and 19% as 'important'.	Approximately nine out of ten Iraqis want a political system in which the mechanism of "selecting or changing government through peaceful and fair elections" be included in the constitution. 69.10% regards such an institution to be 'very important'.  Diamond's first criteria and Iraqi public opinion are compatible.
2. The active participation of the people, as citizens, in politics and civic life.	61.4% of Iraqis view it as 'important' or 'very important' that the right to "organize political, civic or labor organizations" be included in the Iraqi constitution: Out of the 61.4%, 41.8% view it as 'very important' and 19.6% as 'important'. 15.5% indicated a 'neutral' position while 14.3% viewed it as 'not important at all'. (International Republican Institute 2005, 16)	The right to "organize political, civic or labor organizations" is viewed as important or very important by over 61% of Iraqis. Freedom of assembly "for any reason or in support of any cause" is favored by 77% of Iraqis. Freedom of expression is supported by 94% of Iraqis.  If realized in practice, the cumulative effect of the three public opinion trends cited



	<p>77% of Iraqis answered in affirmative and 12% in the negative to the question: “[Do you believe the new constitution should allow] all Iraqi citizens to assemble for any reason or in support of any cause?” (The Gallup Poll: Public Opinion 2004, 178)</p> <p>94% of Iraqis answered in affirmative and 2% in the negative to the question “[Do you believe the new constitution should allow] all Iraqi citizens to express their opinions on the political, social, and economic issues of the day?” (The Gallup Poll: Public Opinion 2004, 178)</p>	<p>above create an environment in which Diamond’s second criterion is likely to be met.</p> <p>Compatibility between Diamond’s second criteria and Iraqi public opinion cannot be determined conclusively. However, the available data on Iraqi public opinion indicates that a substantial majority of Iraqis would be supportive of Diamond’s ideal of “active participation of the people [--] in politics and civic life”.</p>
3. Protection of the human rights of all citizens.	<p>90.8% of Iraqis answered in affirmative and 9.2% in the negative to the question on whether ‘basic human rights’ should be included in the constitution. 90.80% of Iraqis answered in the affirmative, including 67.80% who ‘strongly agreed’ that ‘basic human rights’ should be included. (International Republican Institute 2005, 50)</p>	<p>Over nine out of ten Iraqis want “basic human rights” to be safeguarded in the constitution.</p> <p>Diamond’s third criteria and Iraqi public opinion are compatible.</p>
4. A rule of law, in which the laws and procedures apply equally to all citizens.	<p>Article 14 of the Iraqi Constitution: “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.” (Washington Post 2015) The Iraqi constitution was endorsed by 78.59% of voters.</p>	<p>Approximately four out of five Iraqis who voted in the constitutional referendum in 2005 cast their vote in favor of the constitution. Article 14 of the constitution states that all Iraqis, regardless of their gender, race, sect or any other trait or status are “equal before the law”. Over nine out of ten Iraqis want “basic human rights” to be safeguarded in the</p>

	90.8% of Iraqis answered in affirmative and 9.2% in the negative to the question on whether ‘basic human rights’ should be included in the constitution. 90.80% of Iraqis answered in the affirmative, including 67.80% who ‘strongly agreed’ that ‘basic human rights’ should be included. (International Republican Institute 2005, 50)	constitution. At the core of human rights is the notion of equality of all human beings. <sup>24</sup>  Diamond’s fourth criterion and Iraqi public opinion are compatible.
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#### 4.7 Theocratic Salafi-Jihadist agenda and political profile of Iraqi citizens

Albeit the IS is disintegrating in the time of writing this thesis, the possibility exists that another ultraconservative Islamist organization would seek to establish dominance in parts of or throughout Iraq. A practical political question thus arises: in such an event, hypothetically, would it be reasonable to assume that Iraqis would be sympathetic towards such an endeavor? To be able to provide an answer to this question requires an in-depth look at political maxims of the IS as well as the views of the Iraqi general public on the corresponding question. Chapter 3.1 scrutinized the tenets of the IS model.

Chart 3 presented a juxtaposition between Diamond’s four conditions for a democracy and Iraqi public opinion trends. As demonstrated, public opinion trends among the Iraqi citizens correspond with Diamond’s criteria for a democratic society. From Diamond’s first criterion to the fourth, the pertinent public opinion trends among Iraqis include:

1. almost nine out of ten Iraqis view it as ‘important’ or ‘very important’ that the government should be selected “through peaceful and fair elections” and that this institution be included in the Iraqi constitution (International Republican Institute 2005, 16);
2. more than six out of ten Iraqis view it as ‘important’ or ‘very important’ that the right to “organize political, civic or labor organizations” be included in the Iraqi constitution (Ibid.);

<sup>24</sup> The preamble to the Universal Declaration of Human Rights highlights the “inherent dignity and [–] the *equal* and inalienable rights of all members of the human family”. Article 1 of the Universal Declaration of Human Rights states that “[a]ll human beings are born free and *equal* in dignity and rights.”

almost four out of five Iraqis answered in affirmative and 12% in the negative to the question: “[Do you believe the new constitution should allow] all Iraqi citizens to assemble for any reason or in support of any cause?” (The Gallup Poll: Public Opinion 2004, 178); almost 19 out of 20 Iraqis answered in affirmative and 2% in the negative to the question “[Do you believe the new constitution should allow] all Iraqi citizens to express their opinions on the political, social, and economic issues of the day?” (The Gallup Poll: Public Opinion 2004, 178)

3. More than nine out of ten Iraqis answered in affirmative and 9.2% in the negative to the question on whether ‘basic human rights’ should be included in the constitution. (International Republican Institute 2005, 50)
4. Article 14 of the Iraqi Constitution: “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.” (Washington Post 2015) The Iraqi constitution was endorsed by 78.59% of voters. Over nine out of ten Iraqis call for ‘basic human rights’ to be included in the constitution. (International Republican Institute 2005, 50)

In light of the above political profile of the substantial majority of the Iraqi public, one may determine that the preferences of the Iraqi general public and the tenets of the IS model are roughly as incompatible as are the four criteria presented by Diamond and the IS model. On every significant question, the philosophical credo of the IS deviates from Iraqi public opinion.

#### **4.8 Iraqi Sunni views on democracy, theocratic rule**

Sunni Islamism, or its subcategory Salafi-Jihadism, are not the only forms of Islamism (Ayoob 2007). However, given that political Salafi-Jihadism is an exclusively Sunni Islamist ideology, and that the demographics of the membership of movements such as Al-Qaeda and the IS are exclusively Sunni, the question on the political positions of Iraqi Sunni Muslims becomes a most pertinent issue. What are the preferences of Iraqi Sunnis towards religious governance and democracy? In light of credible survey data, are Sunni Muslims more likely to favor a theocratic model than other Iraqis?

In 2009, the following question was posed to all Iraqis. The first chart presents the answers by Iraqi Shias, Iraqi Sunnis and Iraqi Kurds. The second chart presents the answers of Iraqi Sunnis.

“There can be differences between the way government is set up in a country, called the political system. From the three options I am going to read to you, which one do you think would be best for Iraq now?” (ABC News, BBC & NHK 2009, 11)

Chart 4: Positions of Iraqis of Shia, Sunni and Kurdish backgrounds:

Strong leader: government headed by one man for life.	14%
Islamic state <sup>25</sup> : where politicians rule according to religious principles.	19%
Democracy: government with a chance for the leader to be replaced from time to time.	64%

“There can be differences between the way government is set up in a country, called the political system. From the three options I am going to read to you, which one do you think would be best for Iraq now?” (ABC News, BBC & NHK 2009, 11)

Chart 5: Positions of Iraqis of Sunni background:

Strong leader: government headed by one man for life.	20%
Islamic state: where politicians rule according to religious principles.	11%
Democracy: government with a chance for the leader to be replaced from time to time.	65%

Out of Iraqi Sunnis, approximately two out of three preferred a democratic form of government while approximately one out of ten favored a theocratic system in which societal rules are derived from religious principles. The third option in which power is concentrated to a single man who rules Iraq was favored by one out of five Iraqi Sunnis.

The positions of Iraqi Muslims of Sunni background, thus, are aligned with the overall Iraqi citizenry. According to the polling data compiled by ABC News, BBC and NHK, the support for the option “a strong leader” is higher among Iraqi Sunnis than among all Iraqis (20% to 14%). However, support for an Islamic rule is lower among Iraqi Sunnis than all Iraqis (11% to 19%). Support for democracy is approximately the same among Iraqi Sunnis and all Iraqis (65% to 64%).

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<sup>25</sup> Editor’s note: Not to be confused with the organization the Islamic State nor its political program.

## 4.9 Summary

The legal regime within the IS is one of divine Islamic law *sharia* which has been implemented as the supreme legal system throughout the IS territories. Positive or man-made law is rejected on the grounds that positive law interferes with the key Islamic concept of *touheed*, the singularity of God. The principle of democracy is repudiated as “a deceptive slogan” (Al-Baghdadi 2014). As demonstrated in Chapters 3.1.3 and 3.1.4, the IS leadership portrays the Sunni Muslim population as being a target of continuous marginalization. In the place of this alleged predicament in which Sunni Muslims are victims of aggression, the IS proclaims it will erect a system in which “the Muslim alone remains the master of the state and decision-making and no one is in conflict with him” (Islamic State 2014). Specific political and legal institutions that discriminate against non-Sunni Muslims have been employed by the IS. The Christian communities within the IS are being targeted with discriminatory *Dhimmi* pact and *jizya* practices. The systematic extermination of the Yazidis demonstrates that the IS is truly dedicated in practice to its doctrine of aggressive, dichotomous and genocidal Sunni supremacy.

The ethos of democratic confederalism seeks to produce a political system that, in the words of Öcalan, is “open towards other political groups and factions”, “flexible, multi-cultural and consensus-oriented” and in which “ecology and feminism” are key principles. (Öcalan 2017, 70-1) The overarching themes in Öcalan’s theorizing are anti-nationalism, decentralization and non-discrimination. Notwithstanding the somewhat abstract and at times ambiguous reasoning by Öcalan, the Rojava Charter, a concrete application of many of Öcalan’s tenets, puts forth a detailed vision for a stateless political order. Avoiding platitudes and vague generalities, the Rojava Charter endorses specific rights, such as the right to freedom of thought and expression, the right to establish and join any political party and the rights of women to participate in all facets of political, social and economic life. The Charter also incorporates several human rights treaties, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

This chapter demonstrates that all six of Dahl’s conditions are met by the Rojava Charter and appropriate mechanisms enacted in the charter. The chapter also shows that Iraqi public opinion is largely consistent with Diamond’s four criteria for democracy. Finally, the chapter corroborates in detail how Diamond’s conditions are incompatible with the IS model.

## 5. Revisiting, answering thesis' research questions

This chapter addresses the five research questions set forth in the thesis' Chapter 1.9. Each question will be addressed in turn.

- 1) How does the Rojava Charter, the provisional constitution of the Democratic Federation of Northern Syria, relate to the six criteria of a democratic society put forth by scholar Robert Dahl?

The motivation for employing the six criteria for democracy defined by Dahl was to determine the depth of democracy of the Rojava Charter. Dahl's exposition is a modern, thorough and detailed interpretation on the conditions that must be met for a society to be considered democratic. Furthermore, in order for the Rojava Charter to be classified as democratic in this thesis, the charter must meet all of the six conditions. Juxtaposition between Dahl's six criteria and pertinent articles of the Rojava Charter corroborates that the charter is compatible with Dahl's criteria. The only condition whose compatibility cannot be determined conclusively is Dahl's sixth condition concerning citizenship rights. The reason why the compatibility between Dahl's six criterion and the Rojava Charter cannot be determined in absolute terms is the fact that the Rojava system is not, and does not aspire to be, a state. Therefore, it does not have the authority to grant citizenship. However, the Rojava Charter does grant broad residential rights to individuals residing within the self-declared autonomous region. The charter safeguards everyone's freedom of movement and the freedom to choose one's residence (article 43). The charter also grants every individual who has reached the age of 18 the right to vote (article 49). Thus, Dahl's sixth criterion and the provisions of the Rojava Charter are de facto compatible whereas the first five criteria are fully consistent with the charter.

- 2) Are there corresponding aspects between the Enlightenment-era social contract philosophy and the 'Charter of the Social Contract' of Rojava?

The immediate connection between the Rojava Charter and the philosophical tradition of the social contract is the very title of the Rojava Charter, *Charter of the Social Contract*. On the basis of the primary source material investigated in this thesis, one cannot deduce exactly what those in Rojava who named the charter the *Charter of the Social Contract* sought to convey with the name. In light of the content of the preambular paragraphs of the charter, however, it seems probable that the title

is an intentional reference to Enlightenment-era social contract theorizing. The preamble of the charter asserts that residents of the three cantons “[--] *freely* and solemnly declare and establish this Charter” and that the provisional constitution “*proclaims a new social contract*” in which the people of Rojava “*unite* in the spirit of reconciliation, pluralism and democratic participation” and that all peoples in Rojava “declare a political system and civil administration *founded upon a social contract that reconciles the rich mosaic of Syria through a transitional phase from dictatorship, civil war and destruction, to a new democratic society* where civic life and social justice are preserved”. (Rojava Charter 2014, preambular paragraphs, my emphasis) The central premises of such language closely resemble the abstract speculation on the state of nature and the social pact among free individuals as they were hypothesized by Kant, Rousseau and Hobbes. Kant argued that laws should be drafted in such a manner that they could have been articulated by the general will and those who make laws should regard each individual as if that individual would have consented with the general will. Kant’s line of reasoning has clear inclusive connotations – connotation that are articulated in even more precise terms in the Rojava Charter. Rousseau’s notion that a man regards others as they were himself indicates that Rousseau envisioned a sense of solidarity among all people. The spirit of mutual solidarity among people is a cornerstone of the Rojava Charter. For Hobbes, the state of nature is one of constant danger and destitution, a condition in which there are no prevailing moral norms nor even a possibility for morality. Hobbes’ view of the abstraction of the state of nature resembles the reality of death and destruction of the war in Syria. One might speculate that in Syria there indeed is no security for any man. An unending absence of security is how Hobbes described the state of nature. Hobbes, like the Rojava Charter, envisioned a social contract that would have the potential to lift humanity away from the perils of disorder and wretchedness.

- 3) What is the degree of compatibility between Diamond’s four conditions for democracy and the political preferences of the Iraqi general public?

Diamond put forth a broad set of four conditions for democracy. A juxtaposition between key trends of Iraqi public opinion and Diamond’s four criteria for a democratic society demonstrates that the two are compatible. Survey data scrutinized in this thesis did not contain enough information to determine whether Diamond’s second condition, people’s active participation in politics, is consistent with Iraqi public opinion. However, given the strong support by Iraqis for freedom of speech and freedom to establish political associations, one may conclude that Iraqis would appear to be supportive of active participation by citizens in political life.

4) Why and how are Diamond's four conditions for democracy not met by the IS regime.

Incompatibility between the IS model, on the one hand, and a democratic model in which human rights are respected, on the other, is evinced in the chart in which the two are juxtaposed. The first criterion by Diamond, a political system in which leadership is determined by free elections, is rejected by the IS as a point of departure. The IS defines itself a caliphate, an Islamic dynasty. The IS describes democracy and secularism as treacherous and false slogans. Primary sources by the IS examined in the thesis do not provide information that would explicitly relate to Diamond's second criterion, active public participation by citizens in politics, however, the IS position on democracy, secularism and freedom as false slogans amounts to a de facto rejection of participation by the public in political life. Diamond's third criteria, respect for human rights of all citizens, is outright inconsistent with the IS model which repudiates all positive law, including by definition all human rights norms. Moreover, the IS leadership advocates, and has carried out, genocidal policies against non-Sunni Muslims, a policy that is a most flagrant violation of human rights. Diamond's fourth criteria, the rule of law in a secular society, is incompatible with the IS credo for reasons addressed in relation to Diamond's third condition: the IS rejects secularism and human rights and only endorses Islamic law and religious law discriminates against all who are not part of that particular faith community. Hence, all philosophical postulates behind each of Diamond's four criteria for democracy are fundamentally at odds with all of the foundational principles of the IS model.

5) How do the political philosophies of the Rojava enterprise and that of the IS relate to modern human rights doctrine?

Here the philosophical discrepancies between the two non-state entities manifest themselves perhaps more unequivocally than in any other context. The Rojava Charter explicitly commits itself to all internationally recognized human rights treaties whereas the IS rejects the entire body of human rights as a point of departure. More importantly, the provisional constitution of Rojava, and before emergence of the Rojava enterprise, the writings of the PKK head Öcalan, possess an ethos that values not only ethnic and religious diversity but diversity of political orientations. The political philosophy developed in the abstract by Öcalan and ultimately rendered concrete in the Rojava endeavor strives towards freedom of expression, freedom of thought and freedom to take active part in political life. As demonstrated in Chapter 2.2, the concept of every individual member of the human family having inalienable rights is the essence of human rights doctrine. Thus, there is a more profound connection between Öcalan's speculation and the Rojava Charter, on the one hand, and human rights, than the



mere endorsement of specific human rights in the charter. Rather, the content of the charter, as scrutinized in Chapter 4.2, enshrines the inherent dignity of each human being and the right of each individual to self-express and to enjoy a multitude of political, social, economic and cultural rights. The political philosophy of the IS doesn't merely violate human rights in practice but rejects the notion of human rights as a matter of principle. For the IS, a man must never have the mandate to draft laws. Rather, the IS leadership contends, every norm that deserves to be called a law is already found in Islamic law.

## 6. Conclusions

The contribution of this thesis is threefold: It dissects the ideological underpinnings behind the societal blueprints of two non-state entities in the Syrian theatre, evaluates the extent of popularity and support for one of them (the IS) and, by implication, helps to illuminate political tendencies for the future of Iraq. The two models are: the democratic grass-roots system in the Democratic Federation of Northern Syria, or Rojava, and the theocratic system of an Islamic caliphate in parts of Syria and Iraq called the Islamic State. Both systems have emerged in the midst of a violent and destructive war, yet it would be erroneous to suggest that either system arose from spontaneous inclination or that either would not have been premeditated in advance. Quite the contrary, the seemingly abrupt appearance of both non-state models were preceded by years of active planning and tactical ambitions. Ultimately, it was the armed conflict in Syria that provided an opportunity for both enterprises to advance their long-term goals in a relatively short period of time. Had the war not broke out in Syria, neither Rojava nor the IS could have established themselves as sovereign, albeit unrecognized, political entities.

As a starting point, I explore primary sources created by the two movements. By scrutinizing statements, official publications and leaked documents produced verifiably by the upper echelon of both enterprises, I delineate how the leadership of the two systems legitimize their political and legal order. The empirical analysis revolves around detecting and analyzing the founding ideals of Rojava and the IS, as expressed verbatim by top leadership of the two entities, and reflecting how the two systems justify their societal visions. Given the differences between the two regimes, and that no single theoretical framework fits them comprehensively, I combine three theoretical traditions that have existed for millennia and are appropriate to the inspection of a wide range of political agendas: democracy, human rights and social contract theory.

As a starting point, the thesis made sure to avoid trying to find answers by merely exploring scholarly sources and other secondary sources that discuss the Rojava project or the IS. Rather, I wanted to go directly to primary sources created by the two movements. By scrutinizing statements, official publications and leaked documents produced verifiably by the upper echelon of both enterprises, the thesis has been able to form an unfiltered picture of how the leadership of the two systems legitimize their political and legal order. The empirical analysis revolved around detecting and analyzing the founding ideals of Rojava and the IS, as expressed verbatim by top leadership of the two entities, and reflecting how the two systems justify their societal visions. That the thesis would be able to provide

insight into the political philosophies of Rojava and the IS, given the differences between the two models, I needed to employ a theoretical framing that would be adaptable enough to meaningfully probe the core beliefs within the two movements. As no single political theory was capable of contemplating the two models comprehensively, I decided to combine three vast theoretical traditions that have existed for millennia and would together be adjustable to the inspection of a wide range of political agendas. The set of theoretical tools that I opted for – democracy, human rights and social contract – would serve as a philosophical basis against which the two ideologies could be mirrored. The selection of the three theoretical instruments was based on the realization that, even when a particular doctrine would *not* be consistent with all or any of the theories, that finding itself would be significant and valuable.

The truly interesting areas are: How does the Rojava Charter perceive democratic ideals or human rights and how exactly does the *Charter of the Social Contract* relate to the social contract theorizing of the Enlightenment? Are the political preferences of the Iraqi public, available through surveys on democracy and human rights, consistent with the ideology within the IS as put forth by the group's top leadership? These questions help to map the recent societal models of Syria and Iraq and help to clarify which way popular legitimacy leans.

Based on key findings in the empirical analysis, the two non-state entities are far apart in, or arguably at the opposite ends of, not just one but several political continuums. The IS defines itself as religious whereas the Rojava model defines itself secular. The IS model explicitly repudiates democracy whereas the Rojava model emphasizes it is grounded on the principle of democracy. The IS model rejects human-generated law and thus by definition the entire body of human rights law whereas the Rojava model incorporates all international human rights treaties in its provisional constitution. It is indeed striking that two of the most ambitious society-building endeavors of the 2010s happen to be located right next to each other and, on top of that, they may well be as distant from one another in terms of their fundamental societal institutions as any two political systems in the world.

Philosophical theorizing on politics, such as the Enlightenment-era speculation on the state of nature, often exists mostly in the abstract. In the abstract, one may seek to defend or refute all kinds of hypotheses rather arbitrarily for there is no observable basis against which assertions could be evaluated, substantiated or disproven. However, as political reality evolves constantly, at times situations emerge in which philosophical speculations cease to be mere abstract mind games. All of a sudden, speculations that previously have existed merely in the abstract might have something to

offer in tangible political terms. Instead of portraying a fictional set of far-out circumstances that few can relate to, there are occasions in which imagined circumstances or aspects of those circumstances manifest themselves in political reality. Social contract theorizing and the Rojava endeavor are one such instance.

The disorderly state of war in Syria as well as the prior reality of anti-Kurdish discrimination in the country resemble the condition of the state of nature as it was hypothesized in particular by Hobbes. The Charter of the Social Contract, or the Rojava Charter, in which free individuals decide to declare a social order to emancipate from the perils of war and discrimination resembles what several Enlightenment-era philosophers referred to as a social pact, a conscious decision made by free men to form a power structure and to overcome the unrefined or wretched condition of the state of nature.

Kant, Rousseau and Hobbes were all able to provide astute observations that resonate with the broader circumstances surrounding the Rojava enterprise. Kant contemplated that ultimately the rightfulness of every law is determined by whether the lawmakers regard each of their subjects as having consented to the general will. Such a claim has similar inclusive connotations as the ethos of Öcalan's theorizing and the Rojava Charter both of which seek to foster inclusivity in political life. Rousseau's view that individuals should relate to others as they would have others relate to themselves denotes a sense of solidarity and unity and calls for decency in interpersonal affairs. One notices a similar line of reasoning in the Rojava Charter which highlights reciprocity and mutuality: "the Charter proclaims a new social contract, *based upon mutual and peaceful coexistence and understanding between all strands of society.*" (The Rojava Charter 2014, preamble, my emphasis) As for Hobbes, similarities between his hypothesizing on the social contract and the Rojava project have to do with the condition *before* the social pact. Hobbes harbored perhaps the darkest interpretation among the Enlightenment-era intellectuals on how humans would behave towards one another in the state of nature. His claim that there would be no security for as long as the state of nature prevailed would seem reasonable in the context of modern Syria on the basis of the lack of security and stability both in the pre-war Syria and during the war in Syria. Hobbes' claim that a social contract might bring about a substantial change in the human condition is echoed in the language of the Rojava Charter that is filled with hope for a more secure and free future, a future that hopefully awaits beyond present dictatorship and war.

Just as the thesis demonstrates similarities between social contract theory of the Enlightenment and the Rojava Charter, the thesis also shows in detail how the sets of criteria for a democratic society put forth by Dahl and Diamond are compatible with the Rojava model. It is illustrative to consider

the Rojava Charter in the context of the differences between the interpretations by Schumpeter and Weber, on the one hand, and Dahl and Diamond, on the other, on the ideal scope of participation by the public in political life. Whereas Schumpeter and Weber seemingly dread the prospect of the public taking part extensively in politics, Dahl and Diamond regard active participation as a sign of a healthy democracy. In terms of the degree of democracy, one could reasonably argue that no political system in the world grants as extensive powers to local communities as the Rojava Charter. In the continuum of preferred degree of public participation in a democracy, one could put on one end the views of Schumpeter and Weber, and the views of Dahl and Diamond towards the other end. However, the provisional constitution of Rojava is pushing the envelope and would seem to go a step further in what it perceives to be the ideal depth of people power. This assessment is based on the provisions in the Rojava Charter. What the actual reality on the ground may be a different matter altogether, as will be discussed at the end of this chapter.

Most of the ideological tenets arising from the primary source material manifest themselves in the IS treatment of the Yazidis, including the IS re-education, a program discovered by Ms. Bahmani and this writer in Iraq in early 2016. After conquering the Sinjar region in 2014, the IS killed thousands of Yazidis and kidnapped thousands more. Yazidis interviewed by this writer and Ms. Bahmani were forced to chattel slavery and sold across the IS territories. Interviewees of Yazidi descent also described how members of the IS organization routinely stated that the Yazidi people should be annihilated entirely. Such assertions are consistent with the view of the IS leadership which refers to all non-Sunni Muslims as “the profane abode of disbelief” and highlights the importance of “expelling its people and killing its people until there is no base for them and the land is for God and his servants.” (Islamic State 2014) Testimonials recorded by this writer and Ms. Bahmani include several instances in which Yazidi prisoners were addressed by the IS personnel with similar genocidal rhetoric. Such evidence proves that the policies of genocide carried out by the IS are not random or a mere byproduct of war but a realization of a societal program that seeks to root out non-Sunni Muslim demographics. Similarly, the IS program of re-education that targets children of Yazidi descent is not an ad hoc project but a realization of the IS political agenda: Yazidi children are forced to adopt the IS version of Sunni Islam and to disaffiliate themselves from Yazidi religion and Yazidi identity. (Bahmani & Jäntti 2016)

The IS has its organizational roots in Iraq, not Syria. Therefore, to explore the extent of its popular support, I review multiple opinion surveys carried out by several independent polling organizations in order to find out how the Iraqi general public relates to questions such as the preferability of

democracy, human rights, the rule of law, torture and freedom of expression. These are issues on which the IS has shown its stance very clearly, as discussed above. Opinion trends among the Iraqi general public are fundamentally at odds with every ideological tenet of the IS agenda: the IS is a theocratic model whereas the Iraqis overwhelmingly favor a democratic form of government; the IS rejects human rights as a matter of principle whereas the Iraqis overwhelmingly insisted that basic human rights be included in the Iraqi constitution; the IS is a system of institutional Sunni supremacy whereas the Iraqi general public overwhelmingly oppose discrimination based on religion.

Insofar as popular support is concerned, Islamic theocracy has thin prospects in Iraq, while the prospects for democracy seem much better. In any case, the IS has no future as a sovereign political system in Iraq nor in Syria. It is probable that the IS will meet its definitive demise by the end of 2017. The main motivation for examining political preferences of Iraqis has to do with post-IS Iraq: if the IS doctrine enjoyed support in Iraq, then it would be plausible that another organization seeking to enforce a system bearing a resemblance to the IS program could consolidate power in parts of Iraq. The thesis demonstrates that a theocratic Islamist agenda is rejected by an enormous majority of Iraqis, including Iraqi Sunnis.

The future of the Rojava model and of Syria generally is uncertain. It is possible that Rojava will be allowed a degree of autonomy. It is also possible that Rojava's enterprise of democratic autonomy will be dismantled. The contribution of the discussion on Rojava is, firstly, that the Charter shows an unprecedented case of social contract theory, which builds on the tradition of Enlightenment thinkers but goes even further in its emphasis on 'demos' part of democracy, the people. Secondly, its contrast to the IS model also reveals the astounding diversity of political worlds arising from the Syrian War.

The limitations of the thesis come especially from the scarcity of empirical data on the popular legitimacy of Rojava and its Charter. Survey data on the popularity of the Charter in the three cantons of Rojava would provide an absorbing comparison between the popularity of the Iraqi constitution in 2005 on the one hand, and the popularity of the Rojava Charter in the Democratic Federation of Northern Syria in 2014, on the other. In 2005, approximately four out of five Iraqi voters endorsed the draft constitution. What is the level of support enjoyed by the Rojava Charter among the people of Rojava? Unfortunately, such polling data does not exist. Moreover, reliable survey data on the political preferences of the people in Rojava, compiled by authoritative and independent polling organizations does not exist either.

The thesis provides prospects for future research on multiple accounts, to test or expand on the findings presented here. An exhaustive survey study on political views in Rojava that would secure a sample of the people in Rojava that accurately represents all subgroups in the region would be a most intriguing research project. Such an investigation would produce survey data that could determine whether the democratic autonomy project enjoys popular support amongst, or suffers from a lack of endorsement by, the people of Rojava. Similar surveys among Syrians would also be welcome.

Another pertinent research question for the future could be directed to those individuals in Rojava who support the democratic autonomy enterprise. A survey question to those individuals would be the following: what has been the performance of the officials in Rojava, primarily those of the leading PYD party, in implementing the Rojava Charter and have the officials themselves abided by the charter in terms of safeguarding broad freedoms, such as freedom of speech and freedom of assembly?

For Iraq, further survey investigation on popular legitimacy would help: To what an extent there exists fluctuation between various cities or governorates in terms of the citizens' political preferences on democracy, theocracy, human rights, equality before the law and other such issues? Secondly, what is the degree of popular support for the IS in areas where it had a strong presence? All in all, there is much opportunity for fruitful further research.

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